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Executive Summary

When the State Board of Education was re-formed in 1984, legislators believed that they had given it the power and independence necessary to pursue far-reaching education reforms. Members of the General Assembly, as well as other groups, have been disappointed by the State Board's performance, particularly in the last few years. Many people interviewed for this study are concerned that the Board has lost touch with its key political constituencies—educators and legislators. They are also concerned by an apparent destructive rivalry between the State Board of Education and the Department of Education.

This report provides a comprehensive analysis of the concerns about the State Board of Education, both from the perspective of legislators and those affiliated with the Board, as well as those of the major participants in education in Tennessee. The report concludes:

- **The functions the State Board of Education performs are necessary.**

Educational progress and reform require long-range planning. The General Assembly recognized the need for such planning when it gave the State Board the power to study both the instructional needs and funding requirements of the state's public schools, and make recommendations to the Governor and the legislature. The General Assembly also gave the State Board the power to determine curricula and set achievement standards. (See *TCA* §49-1-302.) It is the State Board of Education's responsibility to determine the direction of education policy, and to provide the leadership necessary to convince others of the need for change.

The existence of a lay policy-making board, composed of business, professional, and community leaders, is important, because the support of these groups is vital if education reform is to be successful. In addition, Board members and staff have the ability to focus on what is necessary for Tennessee's children, without the political distractions that legislators face. They also have the ability to address questions of education policy at a macro level, without the more narrow, implementation-oriented concerns of the State Department of Education. (See pp. 12-14.)

- **The distinction between the State Board and the Department of Education is not clear, and the strained nature of the relationship between the two has been counterproductive to educational progress.**

Few people appear to understand the distinction between the State Board and the Department of Education; the former is to set policy, the latter is to implement it. Conflicts between the Department of Education and the State Board have made this distinction unclear, and have impeded educational progress.

The Department seems to have been largely at fault for these conflicts. *TCA* §49-1-201(5) directs the Commissioner of Education to “see that the school laws and the regulations of the state board of education are faithfully executed.” Yet, some Department officials have either failed to provide information necessary for policy development to Board members and staff, or have delayed the release of such information. The Department also appears to have delayed implementation of some Board directives. As a result, State Board members and staff have felt it necessary to engage in policy implementation. This situation clearly violates the General Assembly’s wishes, as codified in *TCA* §49-1-201 and §49-1-302. The lines of accountability, both within each agency and between them, need to be more tightly drawn. (See pp. 14-20.)

- **The State Board may need to have the same control over the Chief State School Officer that local boards have over their superintendents.**

Almost everyone interviewed for this study agreed that the current state-level governance structure is unwieldy, and that it does not provide the kind of accountability expected at the local level. Members of the State Board, as well as many others with a stake in the system, note that the General Assembly has given control over superintendents to local school boards, because legislators believe that accountability is achieved more easily with this governance structure. If accountability is the goal, the State Board needs to have the same control over the person charged with implementing State Board policy (i.e., the Commissioner of Education) that local boards have over their superintendents. For suggestions on how this might be accomplished, see pages 20-24 and Exhibit 2 on page 23.

- **Communication and consensus-building are serious problems for the State Board of Education.**

State Board members and staff have done a poor job of communicating with members of the General Assembly. State Board members and staff have relied upon written reports as their primary means of communication with the General Assembly. Legislators, however, indicate they want more personal contact with both Board members and staff.

The State Board has also done a poor job of communicating with its education constituents. In a Comptroller's Office survey, few of the 54 superintendents who responded felt confident that they understand the Board's mission and duties. Representatives of education advocacy groups claim that Board staff members consult them only to give the Board's decisions legitimacy; they believe their contributions are routinely ignored. (See pp. 24-30.)

- **The General Assembly is setting policy itself, rather than allowing the State Board to do so. The State Board has aggravated this situation by refusing to present a specific legislative agenda.**

Legislators are particularly frustrated by the State Board's failure to present them with a coherent legislative agenda. They believe that they must make policy because the Board has not. On the other hand, State Board members and staff have consistently avoided the development of a specific legislative agenda. They believe that far too much of education policy is already legislated, and so they have focused on fighting proposed legislation, rather than drafting their own alternatives.

Specific legislation in the area of education policy undermines the State Board's ability to carry out its statutory mandate. For example, legislative intervention in the policy-making process has led to the codification of the funding formula, making it impossible for the State Board to make changes in that area. The General Assembly has also limited the Board's ability to determine which programs and rules will be retained and which will be discarded. (See pp. 30-35.)

- **The State Board attempted to warn the General Assembly of funding inequities.**

Although legislators suggested that the State Board neglected funding reform for the state's public schools, evidence does not support this assertion. The Board clearly called for funding reform in the first *Funding Needs Report* it submitted to the Legislature

in 1986, and in subsequent reports. Board members and staff continued to provide evidence of funding inequities until the development and adoption of the Basic Education Program (BEP) funding formula in 1992. The General Assembly requires the Board to submit *Funding Needs Reports*; those reports clearly outline the problem and propose solutions. Lawmakers have chosen to write the funding formula into law, however, which makes it impossible for the State Board to change the funding scheme without legislative approval. (See pp. 35-38.)

- **The confirmation process needs to be improved.**
TCA §49-1-301 requires legislators to confirm the Governor's appointments to the State Board of Education. Most members of the General Assembly, however, appear to know little about either the State Board itself, or its members. Given the State Board's very important task of setting educational policy for the state as a whole, one might expect rigorous and in-depth confirmation hearings. This has not been the case; recent appointees have rarely been questioned at length. If legislators took a more active role in the confirmation process, they might have more confidence in the Board's ability to set policy. (See pp. 38-40.)
- **Leadership at the Board is a problem.**
Both legislators and education advocacy groups are unhappy with the leadership at the Board. Both groups wish to see individual Board members take a more prominent role in the political process, and to see Board staff take a less prominent role.

The availability of members of a lay board is a problem. The members of the State Board are business, professional, and community leaders who serve voluntarily, and who already spend a great deal of time visiting schools. It would be difficult for them to spend vast amounts of time with legislators. Members of the General Assembly and the Governor need to determine what they want from the members of the State Board and make those expectations clear. (See pp. 40-42.)

- **The low profile preferred by State Board members has impaired the Board's credibility and damaged its reputation.**
Board members have maintained a low public profile in the interest of "getting the work done." On one hand, this strategy has enabled Board members to work well together and to keep their sights on long-range policy-setting. On the other hand, this strategy has caused legislators and others to doubt that the State

Board is necessary. Board members and staff need to spend more time cultivating relationships with legislators, education advocates, and district-level educational personnel. State Board members may also need to develop a specific legislative agenda, in order to communicate to legislators the Board's priorities for education reform. (See pp. 42-44.)

- **Lack of K-12 experience on the part of State Board staff undermines the confidence of those affected by State Board policy.**

No staff member at the State Board has any recent K-12 classroom teaching experience, and this makes educators and their advocates distrustful of Board policy. Although Board members and staff believe that they have sufficient input from practitioners through the many advisory panels and focus groups they use during the stage of policy development, education advocacy groups and district personnel have a different impression. In order to improve its credibility with those in the field of education, the Board should attempt to hire at least one analyst with recent, and substantial, K-12 classroom teaching experience. (See p. 44.)

If members of the General Assembly wish to change the State Board of Education in some way, they have several alternatives. One alternative would be to change the governance structure and give the State Board the power necessary to carry out its current statutory mandate. This might involve giving the State Board the power to appoint the Chief State School Officer, which would provide clarity in the lines of authority and accountability at the state level. (See p. 45.)

Another alternative the General Assembly may wish to consider is that of revising the State Board's mission. Legislative intervention in education reform has limited the State Board's ability to carry out its mandate as described in *TCA* §49-1-302. The General Assembly may wish to designate the State Board of Education as an educational advisory body to the legislature, rather than a policy-setting entity. This alternative would require a revision of the *Tennessee Code Annotated*. (See p. 45.)

Members of the General Assembly may wish to initiate procedures to enhance communication between legislators and members of the State Board. In order to accomplish this goal, legislators might participate more fully in State Board confirmation hearings. This would give them an opportunity to make their expectations clear to prospective

Board members. They might also require Board members and/or staff to meet regularly with members of the legislature. (See pp. 45-46.)

Finally, the General Assembly may wish to consider abolishing the State Board and moving policy-development responsibilities to another entity. The two most obvious alternatives to the State Board would be the Department of Education and the General Assembly itself. (See pp. 46-47.)

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Introduction

John S. Wilder, Speaker of the Senate, and Jimmy Naifeh, Speaker of the House of Representatives, requested an evaluation of the State Board of Education in a letter to William R. Snodgrass, Comptroller of the Treasury:

We request that your office perform a study of the accomplishments of and the need for continuing, modifying or abolishing the state board of education (created by Chapter 6, Public Acts of 1984, First Extraordinary Session).

We are particularly interested in obtaining information about the following areas: organization, staffing, and method of selection of the members of the state board of education; the state board of education's accomplishments since its creation; and such other matters as may be necessary to determine if the state board should be continued as it currently exists, abolished, or modified.¹

When the State Board of Education was restructured in 1984, legislators believed that they had given it the power and independence necessary to pursue far-reaching education reforms. Members of the General Assembly have been disappointed by the performance of the Board, particularly in the last few years. Lawmakers complain that the State Board has done little to advance the cause of education reform in the state, and that members of the Board itself, and of the Board's staff, have failed in their duty to keep the legislature informed. Legislators also believe that the State Board was unwilling to attempt the difficult issue of funding reform, and that this timidity led to a major lawsuit against the state (*Tennessee Small School Systems, et al., v. Ned Ray McWherter, et al.*). Several legislators have questioned the need for a State Board of Education.

Other groups interested in education policy have also expressed disappointment with the Board. Many people are concerned that the Board has lost touch with its key political constituencies—educators and legislators. They are also concerned by what they see as a

¹Letter dated June 17, 1993.

destructive rivalry between the State Board of Education and the Department of Education.

This report provides a comprehensive analysis of the concerns about the State Board of Education, both from the perspective of legislators and those affiliated with the Board, as well as those of the major participants in education reform in Tennessee. Possible options for policymakers are outlined in the final section.

Methodology

This report is based on an extensive set of personal interviews with those who are concerned with education in Tennessee, including legislators, members and staff of the State Board of Education, personnel at the State Department of Education, and representatives of education advocacy groups. The Comptroller's Office also administered a survey to the 139 school district superintendents; 54 responded. Analysts from national education advocacy groups and academicians who work in the field of education governance also contributed to the report. The author conducted a review of State Board of Education materials and records, relevant legal literature, and the *Tennessee Code Annotated*. An electronic search of education-related literature databases also proved helpful. The Education Commission of the States and the National Association of State Boards of Education provided information about other states and their governance structures.

As with any report based largely on personal interviews, it is difficult to prove or disprove any particular accusation, or verify any particular complaint. The author attempted to include only those criticisms that were repeated frequently over the course of the interviews, and that are relevant to the charge issued by the Speakers. With respect to the conclusions of this study, a criticism leveled by people in different groups with different perspectives was given more weight than one leveled by a single individual, group, or agency. Specific anecdotes were used only when at least two people confirmed them independently of one another.

In an attempt to encourage complete candor during the interview process, every attempt was made to keep the identity of individual commentators confidential. Those persons quoted by name specifically stated that their remarks could be attributed to them.

THE ROLE OF THE STATE BOARD OF EDUCATION

The earliest state board of education was created in New York in 1784, but this board was granted control over the state's colleges. The first state board of education with control over elementary and secondary schools was created in Massachusetts in 1837. By the turn of the century, most states had followed Massachusetts' lead in this area and created entities to set statewide standards for education. State boards were designed to sever the ties between politics and education, but in an era of shrinking resources and increasing legislative interest in education, this is no longer possible.

It used to be said that modern state boards served to insulate education from the dirty world of politics.

State boards were designed to sever the ties between politics and education...

Recall that at the turn of the century, the tie between education and politics was widely recognized, widely reviled, and state boards of education were invented to "correct" the problem. But the reform decade of the 1980's has once again made it obvious that education is just one more resource to be allocated, and that the provision of education is undeniably political.²

The political effectiveness of state boards of education is a matter of some debate, both in the academic community and among policymakers. This report will consider the different types of state boards, their ability to perform their stated missions, and their role in an effective, efficient education system.

MODELS OF GOVERNANCE³

Currently, there are many different models of state board of education governance. Forty-three states subscribe to one of four models of governance. Of the remaining states, one, Wisconsin, has no state board at all; the other six each use a different model.

²Patricia F. First and Russell J. Quaglia. *The Evolving Roles of the State Boards of Education, State Education Agencies, and Chief State School Officers: Occasional Paper Series No. 8*. Orono, Maine: College of Education, University of Maine, 1990, p. 9.

³See Martha McCarthy, Carol Langdon and Jeanette Olson, *State Education Governance Structures*. Denver: Education Commission of the States, 1993, p. 9, Table 1.

In 13 states, the governor appoints the members of the state board of education, and the members of the board then appoint the Chief State School Officer [CSSO].⁴ This is the most common model. In 11 states, the governor appoints the members of the state board of education, but the CSSO is elected by the public.⁵ In nine states, the public elects members of the state board, who then appoint the CSSO.⁶ In eight states⁷, including Tennessee, the governor appoints both the members of the state board and the CSSO.

The remaining states have several ways of choosing members of the state board and the CSSO. In Louisiana, New Mexico, and Mississippi, members of the state board of education are chosen by various elected officials.⁸ The board members, however, appoint the CSSO. In New York, the legislature appoints members of the board, and the board then appoints the CSSO. In Texas, the State Board is elected, and the governor appoints the CSSO. In South Carolina, the legislature appoints members of the state board, and the CSSO is popularly elected.

SELECTING BOARD MEMBERS⁹

As noted, there are two ways of selecting state board members: appointment or election. In most states, the governor appoints members of the board.¹⁰ In 13 states, the public elects some or all

⁴The 13 include: Alaska, Arkansas, Connecticut, Delaware, Illinois, Kentucky, Maryland, Massachusetts, Missouri, New Hampshire, Rhode Island, Vermont, West Virginia. In New Hampshire, the governor chooses state board members in conjunction with an advisory council of 5 elected members.

⁵These include: Arizona, California, Georgia, Idaho, Indiana, Montana, North Carolina, North Dakota, Oklahoma, Oregon, and Wyoming.

⁶Alabama, Colorado, Hawaii, Kansas, Michigan, Nebraska, Nevada, Ohio, and Utah.

⁷Iowa, Maine, Minnesota, New Jersey, Pennsylvania, South Dakota, Tennessee, and Virginia.

⁸See *An Opportunity For Excellence: The Education Reform Act of 1982; Summary. A Report of the Task Force for Educational Excellence in Mississippi*. Jackson, Mississippi: Mississippi State Department of Education, 1983, p. 19.

⁹See Martha McCarthy, Carol Langdon and Jeanette Olson, *State Education Governance Structures*. Denver: Education Commission of the States, 1993, p. 13, Table 2.

¹⁰Thirty-three states follow this method of board member selection. The Governor appoints Board members in: Alaska, Arizona, Arkansas, California, Connecticut, Delaware, Georgia, Idaho, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Minnesota, Missouri, Montana, New Jersey, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Vermont, Virginia, West Virginia, and Wyoming. In New Hampshire, the Governor

members of the board.¹¹ The remaining states have other methods for filling board seats, including appointment or election by the state legislature or by local school boards.¹²

There are political ramifications of each method. Governors can appoint board members based on a variety of criteria, including party affiliation and/or qualifications. Although no appointment process guarantees that the best candidate will be appointed, one drawback to this approach is that governors may not always appoint the best or most qualified individuals. Appointments may be used as political rewards for supporters, or they may be used as a way to maintain partisan control of the state education system long after a particular governor has departed office.

Another problem with gubernatorial appointments is that the members of the state board are not accountable to the public in the same way that elected officials are. In some instances, this can be positive; if difficult and unpopular decisions must be made, a state board that is insulated from the tide of public opinion can make policy based on what is necessary or good, rather than on what is popular at the moment. On the other hand, appointed members have the ability to make policy without any concomitant responsibility for the political consequences of those policies.

On the positive side, governors can appoint well-qualified and competent people because they have access to the information necessary to determine who meets the desired qualifications. One of the major drawbacks to a popularly-elected state board of education is that voters may not know the qualifications that are desirable for those who set state education standards. Obtaining the information necessary to make a good decision in the voting booth is costly (in terms of time and energy) for most voters. The extremely low turnout rates for most local and state elections indicate that voters either do not care about the issues (which may not be the case at all), or that

and an elected five-member Council appoint State Board members. In Mississippi, the Governor appoints five members, the Lieutenant Governor appoints two members, and the Speaker of the House appoints two members.

¹¹Alabama, Colorado, Florida, Hawaii, Kansas, Louisiana, Michigan, Nebraska, Nevada, New Mexico, Ohio, Texas, and Utah.

¹²State Board members are elected by the legislature in New York; by local school boards in Washington. In South Carolina, one member is appointed by the Governor; the rest are elected by legislative delegations of counties in the state's 17 judicial circuits.

they do not feel they have the necessary information to cast an intelligent vote. Election of state board members would probably fall into the latter category. The danger would be that the only candidates who could run a statewide election would be those funded and supported by special interest groups.

EVALUATING STATE BOARD PERFORMANCE

Many factors affect the ability of any state board to govern effectively, including the competence of those elected or appointed to the board; the relationship between the board and the CSSO and/or the state department of education; and the relationship between the board and the state legislature. It is difficult to determine which of these factors is the most important, because each plays a part in the successes or failures of a state board.

The competence and leadership abilities of board members are extremely important. The educational philosophies of these members will determine the strategies the board takes toward important issues

State boards are most likely to be effective when they provide high-profile symbolic leadership.

of educational change and policy implementation. If members of the board are merely political appointees who have little or no background in education, the board is not likely to provide effective leadership. If such board members attempt to legislate change at the local level, they are also unlikely to be successful. With regard to members, state boards are most likely to be effective when they provide high-profile symbolic leadership.

States cannot mandate effective schools: the essence of an effective school is a strong culture, which derives from a strategic independence. Yet, states can help create and sustain effective schools in at least seven ways: (1) providing symbolic leadership to raise the status of education; (2) articulating clear state educational goals; (3) building awareness of the school effectiveness research; (4) developing system incentives that recognize and reward school effectiveness; (5) providing technical assistance to schools; (6) altering training and certification

requirements; and (7) strengthening state data gathering.¹³

All of these things require a strong working relationship between a state board of education and the CSSO. This relationship is undoubtedly made easier when the state board has the power to appoint and dismiss the CSSO, but state boards that do not possess this power are not necessarily doomed to impotence. Again, in this area, the personalities and abilities of the members of the state board come into play.

CREATION OF THE CURRENT BOARD IN TENNESSEE

The original State Board of Education was created in 1875 to administer the newly-created teaching college or “Normal School.” The Board initially was given control only over institutions of higher education. Over the next 118 years, the State Board was relieved of its postsecondary responsibilities and became the governing body for grades K-12. For a brief legislative history, see Appendix C.

Prior to 1984, the State Board of Education was dominated by the Commissioner of Education, who served as the chair of the 15-member board. The Governor, who also served as a member of the Board, appointed 12 members. There were four members from each Grand Division of the state, who served staggered nine year terms. Statute required that the two major political parties be represented by a minimum of three members apiece. The Executive Director of the Higher Education Commission served as an ex officio, nonvoting member.¹⁴

...legislators believed that education reform would proceed more quickly if the State Board were independent of the Department of Education and the Governor's office.

Governor Lamar Alexander recommended several education reforms in the early 1980s, and legislators believed that education reform would proceed more quickly if the State Board were independent of the Department of Education and the Governor's office. Lieutenant Governor John Wilder introduced legislation to make the State Board an independent policy-making body, complete with its own staff; the Commissioner of Education, who chaired the State Board, would be

¹³Odden, quoted in Charles F. Faber, *Local Control of Schools: Is Local Governance A Viable Option?* Charleston, West Virginia: Policy and Planning Center, Appalachia Educational Laboratory, 1990, p. 17.

¹⁴Tennessee Comprehensive Education Study Task Force. *The Tennessee Comprehensive Education Study*. State of Tennessee: December, 1982, p. 108.

removed as a member. Legislators supporting the bill argued that redefining the State Board would result in improved policy-making, because they believed an independent lay board would be more objective than a Commissioner employed by the Governor.

In support of the proposed reforms, Lieutenant Governor Wilder also raised the issue of continuity in education policy-making. In 1984, the position of Commissioner of Education had been vacated several times within a relatively short period. Legislators were concerned that such turnover could be detrimental to education policy development, given that the Commissioner served as chair of the State Board. They argued that, by giving the State Board an enhanced role, continuity should be easier to achieve. They also asserted that a newly-restructured State Board would serve the same oversight functions for grades K-12 as did the Higher Education Commission for postsecondary institutions.¹⁵

MEMBERSHIP ON THE CURRENT BOARD

Tennessee Code Annotated (TCA) §49-1-301 sets out the conditions for membership on the State Board of Education. The Board is to be composed of nine appointed members, one public high school student member, and the Executive Director of the Higher Education Commission as a nonvoting, ex officio member. Members of the State Board are to be chosen from each congressional district, and they must continue to live in the district from which they are chosen, or their seat automatically becomes vacant.

All members serve a nine-year renewable term; in 1984, the terms were staggered so that three members end their terms every three years. At least three members of the Board must be of the minority party, and at least one member must be of the minority race. The statute encourages the governor to appoint at least one person over the age of 60, and it forbids the inclusion of more than one active educator as a Board member. The statute requires that the Board meet at least four times a year, but the current Board meets six times yearly. The position of any member will become vacant if the member misses, without cause, more than two consecutive meetings within any 12-month period; cause is to be determined by the Board.

¹⁵Taped recordings of legislative committee meetings, January 25 and 26, 1984.

Board members themselves elect the chair of the Board for a term of four years; the chair may be reelected. The chair appoints the members of any Board committees, and also names any committee chairs. The chair may also call meetings. For administrative purposes, the State Board is housed in the Department of Education. The statute states clearly, however, that this organizational structure does not give the Commissioner of Education any administrative or supervisory authority over the Board or its staff.¹⁶

POWERS AND DUTIES OF THE STATE BOARD

The powers and duties of the State Board of Education are set forth in *TCA* §49-1-302. Although there are numerous subsections in this section of the *Tennessee Code Annotated*, the Board's responsibilities cover three main areas: analysis and reporting; the development of policies, guidelines, and standards; and professional regulation, certification, and evaluation. Within those categories, the State Board has broad statutory powers.

The State Board's analytical functions are among the most important it performs. The Board is directed to analyze the needs (including instruction and funding) of public schools, and to report those needs to the Governor and to the General Assembly. The Board does so through the progressive revision of its *Master Plan* for public education, and its *Funding Needs Reports*.¹⁷ In addition, the Board has the responsibility of reviewing the Basic Education Program, and of providing an annual report describing teacher, student, and school performance to the Governor and the legislature.¹⁸ The Board is required to meet annually with the Higher Education Commission, and the two boards are to submit a report to the Governor, the General Assembly, local boards of education, and superintendents. The report is to detail areas of overlap and duplication between K-12 and higher education; determine the extent of compatibility in high school graduation requirements and admission requirements in postsecondary institutions; analyze the extent to which their

¹⁶*TCA* §49-1-301.

¹⁷These reports are also communicated to local boards of education and district superintendents.

¹⁸The Basic Education Program [BEP] was part of the Education Improvement Act, which the General Assembly adopted in 1992. The BEP specifically addresses funding needs of schools; the BEP funding formula uses estimates of the cost of personnel, supplies, maintenance, etc. to determine how much money a local school system needs to run its schools.

respective Master Plans are being fulfilled; and discuss the extent to which the state's education needs, as determined by the two boards, are being met.

The State Board's regulatory functions are also important. The Board must adopt policies, formulas, and guidelines for the fair and equitable distribution and use of public funds for education. The responsibility for setting promotion, graduation, and achievement standards for students falls within the Board's purview, as does the periodic review and classification of all schools. The Board also bears the responsibility for overseeing curricula; prescribing textbooks and instructional materials; determining ways of improving educational performance of teachers, students, and schools; and setting policies to achieve improved performance.

The statute gives the Commissioner of Education the duty to propose any regulations deemed necessary to implement Board directives; the Board has the authority to approve, disapprove, or amend any of those rules or regulations. The Board has similar powers with respect to the State Certification Commission.¹⁹

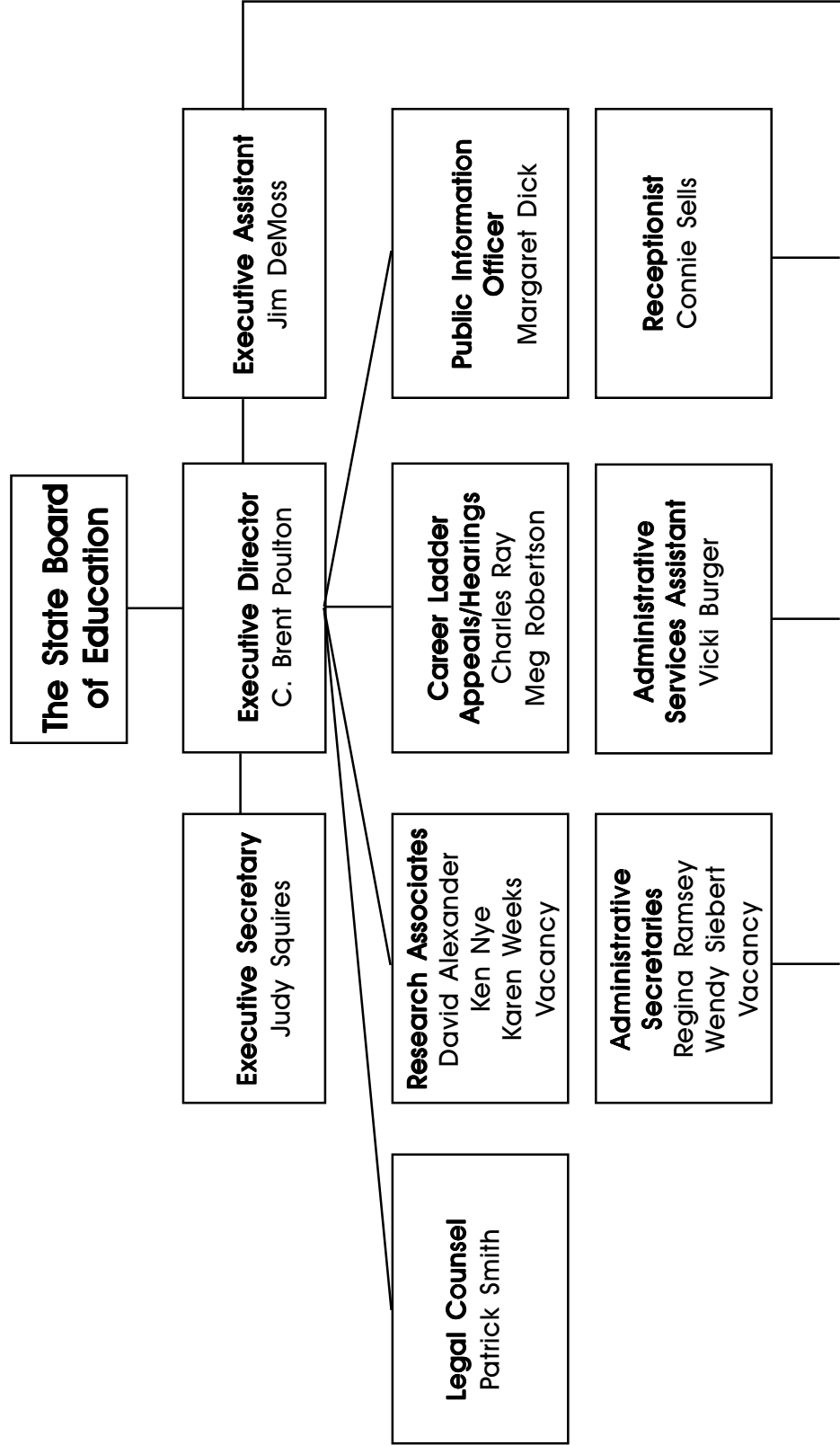
Finally, the State Board is responsible for the regulation and evaluation of professional personnel. The Board is charged with setting guidelines for licensing and certification of all public school teachers, principals, assistant principals, supervisors, and superintendents; the Board also determines the conditions under which licenses and certificates may be revoked. The Board is also charged with evaluation of professional personnel, and with professional development and retraining.

BOARD STAFF

At present, the Board has 16 authorized staff positions; two of those positions are currently vacant. (See Exhibit 1.) Of the 14 current employees, nine serve in an administrative or research capacity. The remaining five serve in a clerical capacity. The vacant positions include one additional research position and one additional clerical

¹⁹The State Certification Commission is responsible for administering the certification and evaluation programs for educators. Among other things, the Commission reviews Career Ladder program applications, recommends to the State Board of Education standards and guidelines for teacher certification, and develops certification tests. See *TCA* §49-5-5101 through §49-5-5103.

Exhibit 1
State Board of Education
Organizational Chart
January 5, 1994



post. The Executive Director is hired by Board members; other staff members are hired by the Executive Director.

THE STATE BOARD'S BUDGET

In the 1992-93 fiscal year, the State Board spent \$907,000. The majority of that amount, \$629,600, was spent on the Board's payroll.²⁰ Estimated expenditures for 1993-94 are \$1,019,500. In the Governor's most recent budget, the Administration has recommended a 1994-95 appropriation of \$1,032,300.²¹

Conclusions

- **The functions the State Board of Education performs are necessary.**

...it is the job of the State Board to determine the direction of education policy and to provide the leadership necessary to convince others of the need for change.

Despite the problems at the Board (discussed in greater detail below), the State Board serves a vital function in education governance. Long-range planning is the key to successful education reform and continued educational progress; the State Board of Education is the only agency charged with the development of a long-term vision for education in Tennessee. It is the job of the Department of Education to implement and administer the education programs decreed by the Board or the legislature. It is the job of the General Assembly to provide adequate funding for education, and to hold teachers, principals, and superintendents accountable for results. But it is the job of the State Board to determine the direction of education policy and to provide the leadership necessary to convince others of the need for change.

The State Board has done this job well. When the Board was reconstituted in 1984, new members found that there had been no systematic evaluation of the needs of Tennessee's schools. They set out to develop a "master plan," which would provide a comprehensive assessment of the state's needs with regard to education reform. The *Master Plan* has become the State Board's

²⁰Board members determine the salary for the Executive Director, and the Executive Director, in consultation with the Board, sets salaries for employees of the Board. Board members themselves are compensated only for travel; they do not receive any kind of remuneration for their services. See TCA §49-1-305 and §49-1-301(6)(c).

²¹State of Tennessee. *The Budget 1994-1995*.

blueprint for educational improvement; it also serves as a “paper trail” for the State Board’s accomplishments.²²

Many of the education reforms codified by the legislature over the years were first suggested by the Board’s *Master Plan*. Among these were suggestions that: academic competencies in vocational education be upgraded; kindergarten be mandatory; performance assessments of school systems and schools be conducted and reported; the funding mechanism be updated in order to improve equity, and funding itself increased; elected superintendents be replaced with appointed ones; and the appropriate use of technology be emphasized. The 1991 *Master Plan* identified several actions needed by the General Assembly to implement the Board’s education reform initiatives; almost all of these suggestions were included in the Education Improvement Act of 1992.²³ Even though a strong perception exists that the State Board has done little in the area of education reform, the major legislative reform initiatives closely parallel the State Board’s recommendations.

One of the Board’s main assets is that it is a lay board, composed of business, professional, and community leaders. Many of those interviewed for this study, both members of the Board and a wide range of others, remarked that it would be impossible to “sell” education reform, particularly reform that requires more taxes, without the efforts of such a Board. Business people and professionals are able to convince members of their communities that change is necessary and that change requires money. The State Board of Education serves as a “bully pulpit” for the very leaders of industry who need educated workers; their stake in education reform is real. This is recognized, and appreciated, by the wider community.

The staff of the Board is another asset. Again, there are problems in this area (discussed below), but the fact remains that the members of the State Board staff have the ability to focus solely on policy development, and to do it in a broad “big picture” context. The Department of Education is necessarily, and rightly, focused on implementation of education programs, but this forces

²²The *Funding Needs Report* is another Board accomplishment. It is addressed below.

²³Chapter 535, Tennessee Public Acts of 1992.

Department personnel to operate in the present and the short-term future. If legislators and those in the Administration agree that long-range planning is necessary for Tennessee's education system, it is crucial that someone, somewhere, has the ability to

It is important that policy at the state level be broadly constituted and not drafted piecemeal by various departments with individual agendas.

look ahead, compile and evaluate the latest theories and ideas in education reform, and set reasonable goals for reform and progress in Tennessee. It is important that policy at the state level be broadly constituted and not drafted piecemeal by various departments with individual agendas. The staff of the

State Board has this ability, and the broader vision necessary to draft the overarching policies necessary at the state level.²⁴

- **The distinction between the State Board and the Department of Education is not clear, and the strained nature of the relationship between the two is counterproductive to educational progress.** Several legislators are not clear about the relationship between the State Board and the State Department. Some believe that the State Board is responsible for duties that are actually the statutory responsibility of the Department of Education, and vice-versa. Several legislators said they thought the Department of Education was responsible for all education reform proposals (at least those that did not begin in the legislature itself), and thus they saw no need for two separate education agencies. Some legislators suggested that the State Board should be abolished altogether, because, in their eyes, it served little or no purpose and abolishing it would save taxpayers money.

Other lawmakers argued that only the staff of the State Board was unnecessary, and that confusion could be eliminated by abolishing the separate staffing structure at the Board. Several members of the General Assembly asked why Department of Education personnel could not staff the Board.

Department employees asked the same question. They feel there is a major duplication of efforts as a direct result of having two different staffs to gather educational information. They contend that all of the data-gathering capability is lodged in the Department, so it would be sensible to have one set of people

²⁴Two staff members were singled out by almost everyone interviewed for this study. Karen Weeks and Jim DeMoss were praised for their fine work, even when those being interviewed believed the staff of the State Board should be eliminated.

disseminating that information to State Board members. In their view, the Department could provide the necessary information to State Board members and save the taxpayers approximately \$1 million each year (the cost of office space and salaries for State Board employees).

Both State Board and Department personnel confirmed that the relationship between Commissioner Smith and the Board had been uncooperative at times. A high-ranking official at the Department acknowledged that the Commissioner had insisted that, prior to cooperating with the Board, permission be given by the Commissioner's office; Board staff confirmed this as well. One person who had worked at both the Department and the Board told the interviewer of bitter encounters between the Commissioner, his Deputy Commissioner, and Board staff members. Others told of being forced to get information from the Department in surreptitious ways, including meeting at downtown locations to swap information with Department employees who were willing to help.

Legislators also complained about problems of getting information from the Department. Several told the interviewer that the Department was overly concerned with the way information might be used, and thus made it difficult for those requesting data or answers to questions. In order to get the information they needed, they were required to submit detailed requests, and then to wait until Commissioner Smith and Deputy Commissioner Hurley cleared their requests. Several legislators pointed out that this information was part of the public domain, but they felt as if the Department were deliberately trying to hide material.

Representatives of the larger education community were also worried about the strained relationship between the State Board and the Department of Education. Many believed this relationship is detrimental to education in Tennessee, and they placed the blame for the tension largely on the Department of Education.²⁵

²⁵This view was not unanimous. At least one group had the opposite impression. They blamed the conflict on the State Board staff. Their representative believes that Board staff members are jealous of the attention given to the Department because of Commissioner Smith's advocacy for the Education Improvement Act.

Defending the State Board in this dispute, one group representative said that the Board "has been able to pull together sometimes bad research and make

Several thought the relationship was so poor because they believed Department personnel wished to take credit for *all* education reform measures, including those emanating from the State Board.

Board members are not at all comfortable with their relationship with the Department. Most of them exhibited a decided distrust of the Department's ability and/or willingness to carry out Board directives. Several said that they had no reliable way of judging whether the Department was fulfilling its legal responsibility to implement State Board policy. Others indicated that the Department had been slow in sending them vital information.

Several members indicated their frustration with the Department over the issue of public credit for policy development. They accused the Department of taking credit for things that were Board initiatives (including the development of the Basic Education Program funding formula), and of co-opting the Board's Master Plan into the Department's "21st Century Schools Program." They believe that the Department wants to do more than merely implement the policies drafted by the State Board; they believe the Department wants to be the policy-making agency as well.

The lack of clarity with respect to the relationship between the State Board and the Department of Education has complicated this study. Legislators need to understand the differences between

The statute clearly gives the State Board policy-making authority...

the two entities, and anecdotal evidence suggests that, at present, such understanding is not common. The statute clearly gives the State Board policy-making authority, and it instructs the Commissioner of Education and the Department to implement those policies developed by the State Board. The *Tennessee Code Annotated* says, in part, that it is the duty of the Board, which has the power to:

- Study programs of instruction in public schools in grades K-12; analyze the needs of such public schools; study the use of public funds for such public schools; and include the conclusions of such studies and

something good out of it." He believes that the Board has done particularly good work given the fight with the Department over figures: "The *Funding Needs Report* is nothing short of miraculous."

analyses in its annual recommendations to the Governor and General Assembly for the funding of public education.

- Set policies for the completion of elementary, middle, junior high, and senior high schools as structured in each school district; for evaluating individual student progress and achievement; for evaluating individual teachers; and for measuring the educational achievement of individual schools.
- Develop and maintain current a Master Plan for the development of public education in grades K-12; and provide recommendations to the Governor, the General Assembly, and the local boards of education and superintendents regarding the use of public funds for education.
- Adopt policies governing:
 1. The qualifications, requirements, and standards of and provide the licenses and certificates for all public school teachers, principals, assistant principals, supervisors, and superintendents.
 2. The revocation of licenses and certificates.
 3. Evaluation of teachers, principals, assistant principals, supervisors, and superintendents.
 4. Retraining and professional development.
- Adopt a policy establishing levels of compensation which are correlated to levels and standards of teacher competency approved by the Board.
- Set policies for graduation requirements in grades K-12.
- Set policies for the review, approval or disapproval, and classification of all public schools in grades K-12, or any combination of these grades.
- Set policies governing all curricula and courses of study in the public schools.
- Prescribe the use of textbooks and other instructional materials, based on recommendations of the state textbook commission, for the various subjects taught or used in conjunction with the public schools.
- Approve, disapprove, or amend rules and regulations prepared by the Commissioner of Education to implement policies, standards, or guidelines of the board.

- Approve regulations, certification standards, and evaluation criteria of the State Certification Commission.
- Determine the ways and means of improving teacher, student, and school performances, and to set policies to accomplish such improvements.
- Provide, in association with the Commissioner of Education, an annual report no later than February 1 on teacher, student, and school performance to the Governor and to the General Assembly.²⁶

The *Tennessee Code Annotated* gives the following instructions, in part, to the Commissioner of Education:

- The Commissioner is responsible for the implementation of law or policies established by the General Assembly or the State Board of Education.
- The Commissioner shall attend all meetings of the state board of education and may speak at such meetings and make recommendations. Any recommendations made by the commissioner shall be made a part of the minutes of such meeting.
- The Commissioner shall provide direction through administrative and supervisory activities designed to build and maintain an effective organization as follows:
 1. Employ and supervise the personnel within the department.
 2. See that the school laws and the regulations of the State Board of Education are faithfully executed.
 3. Prepare and present to the State Board of Education for its approval, disapproval, or amendment such rules and regulations as are necessary to implement the policies, standards or guidelines of the State Board or the education laws of the state.
- In the absence of the State Board, the Commissioner shall have, if necessary, the emergency and public necessity rule-making authority provided for in the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

²⁶*TCA* §49-1-302.

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- The Commissioner may prepare and promulgate, without Board approval, such rules and regulations as are solely necessary for the administrative operation and functions of the Department; however, this authority shall not supersede the powers of the State Board in policy matters and may be used only in performance of the Commissioner's administrative responsibilities.
 - The Commissioner may conduct, subject to approval of the State Board of Education, a program of public information concerning public schools.²⁷

The delineation between policy development and implementation in the statute has become unclear in practice. The Department has become more and more involved in policy development, in part because of legislative demands for specialized programs to meet perceived constituent demands. The State Board has become more involved in implementation, as members attempt to ensure that the policies they have adopted are actually carried out.

The relationship between the State Board and the Department of Education has had a direct affect on the State Board's ability to accomplish its mission. The Board must rely on the data gathered by the Department to make good policy. Board staff members told the interviewer that Department personnel tried to be helpful, and that many Department employees took personal job risks to give information to Board staff. However, this kind of "territorial" behavior on the part of Department administrators is not conducive to improving education in Tennessee.

Both legislators and Department employees raised the question of whether the State Board needs its own staff. When legislators admit that they have trouble getting information from the Department, it seems clear that, in this one respect at least, the State Board staff has served the legislature well. No legislator complained to the interviewer that State Board staff members withheld information or delayed presenting information to him or her. Almost all of them made such complaints about the Department of Education. Legislators complained about the lack of communication between the State Board and the General Assembly, but they acknowledged that State Board staff members

²⁷TCA §49-1-201. The complete list of the Commissioner's duties is much longer.

were always happy to provide information once they were asked—if they had access to that information themselves.

The information transfer problem was, in part, a result of restricted access to the Department's computerized data bases. This problem has been alleviated to some extent, because the State Board now has access to the state's mainframe computer, and thus to the same information the Department was once reluctant to share. This access will provide not only a wealth of previously unavailable information to the State Board, but also a means to verify the information the Department releases to the public.

The recent change in commissioners may result in an improved relationship between the State Board and the Department of Education. By all accounts, the new Commissioner, Wayne Qualls, and the Executive Director of the State Board work well together; the frictions that were evident under the last administration are gone. This does not, however, solve the underlying problem. As long as personalities play such an important role in the relationship between the State Board and the Department, there is always the possibility of friction between the two.

According to statute, the Department is subject to the Board, but in practice they operate almost independently of one another.

The State Board should **not** be in the position of having to manage the Department—but the Board has every right, both legal and ethical, to expect the Department to carry out its directives in full and in a timely fashion. According to statute, the Department is subject to the Board's policy directives, but in practice they operate almost independently of one another.²⁸ The lines of responsibility need to be more tightly drawn.

- **The State Board may need to have the same control over the Chief State School Officer that local boards have over their superintendents.**

Almost everyone interviewed for this study agreed that the current state-level governance structure is unwieldy, and that it does not provide the kind of accountability expected at the local level. Members of the State Board, as well as many others with a stake

²⁸See TCA §49-1-302 and §49-1-201.

in the system, note that the legislature has given control over superintendents to local school boards. If the reasoning behind this decision is good—and State Board members believe that it is—they do not understand why the legislature has not given the State Board the same level of authority enjoyed by local boards. Accountability is achieved more easily with an appointed superintendent than with an elected one—who may be at odds with the board, but still be elected to the post.

Members of the State Board are quick to point out that there are no analogous organizations in the business world. The Board of Trustees of any corporation is given the right to hire and fire the Chief Executive Officer; the State Board of Education has no such power. Many legislators talk about the need to run Tennessee's education system as if it were a business, but the State Board's inability to control the person responsible for implementing Board policy makes this virtually impossible.

OTHER PERSPECTIVES. A few Department members, including former Commissioner Charles Smith, said that they thought it might be useful to give the Board the power to appoint the Commissioner, in order to clear up the lines of authority. Others saw no reason for a State Board at all, and believe that education policy ought to be made, as well as implemented by, the Department.

Representatives of the Tennessee Organization of School Superintendents and the Tennessee School Board Association believe a strong State Board is a necessity, and that the State Board needs the power to appoint the Chief State School Officer. If district superintendents must be appointed at the local level, representatives of these groups believe the CSSO should be appointed as well. Representatives of the Tennessee Education Association, however, object to this solution. They believe that the CSSO should continue to be appointed by the Governor, unless State Board members are popularly elected.

Giving the State Board the power to appoint its Chief State School Officer would be a significant departure from current practice, but this may be necessary if the legislature desires the State Board of Education to have the authority to carry out its duties as currently defined in statute. Presently, the State Board is being held accountable for things over which it has little or no

control. The State Department of Education can, and by all accounts has, delayed implementation on key projects and denied the State Board the information it needed to make good decisions in the process of education policy-making. If the Board had the power to appoint the Chief State School Officer, this would be much less likely to occur.

Several people interviewed for this study believe that an autonomous State Board of Education with the power to appoint the Chief State School Officer is not a realistic option, given the traditional strong executive government model in Tennessee. Many said that a Governor who could not appoint the person responsible for implementing education policy would have little reason to cooperate with education reform. This would not have to be the case. There are several different scenarios that would enable the State Board to have the necessary control over the Chief State School Officer, while, at the same time, giving the Governor a measure of control. For example, the Board could offer a “short list” of names of potential CSSO candidates, and the Governor could choose from that list. The legislature could retain the responsibility of approving candidates for office.

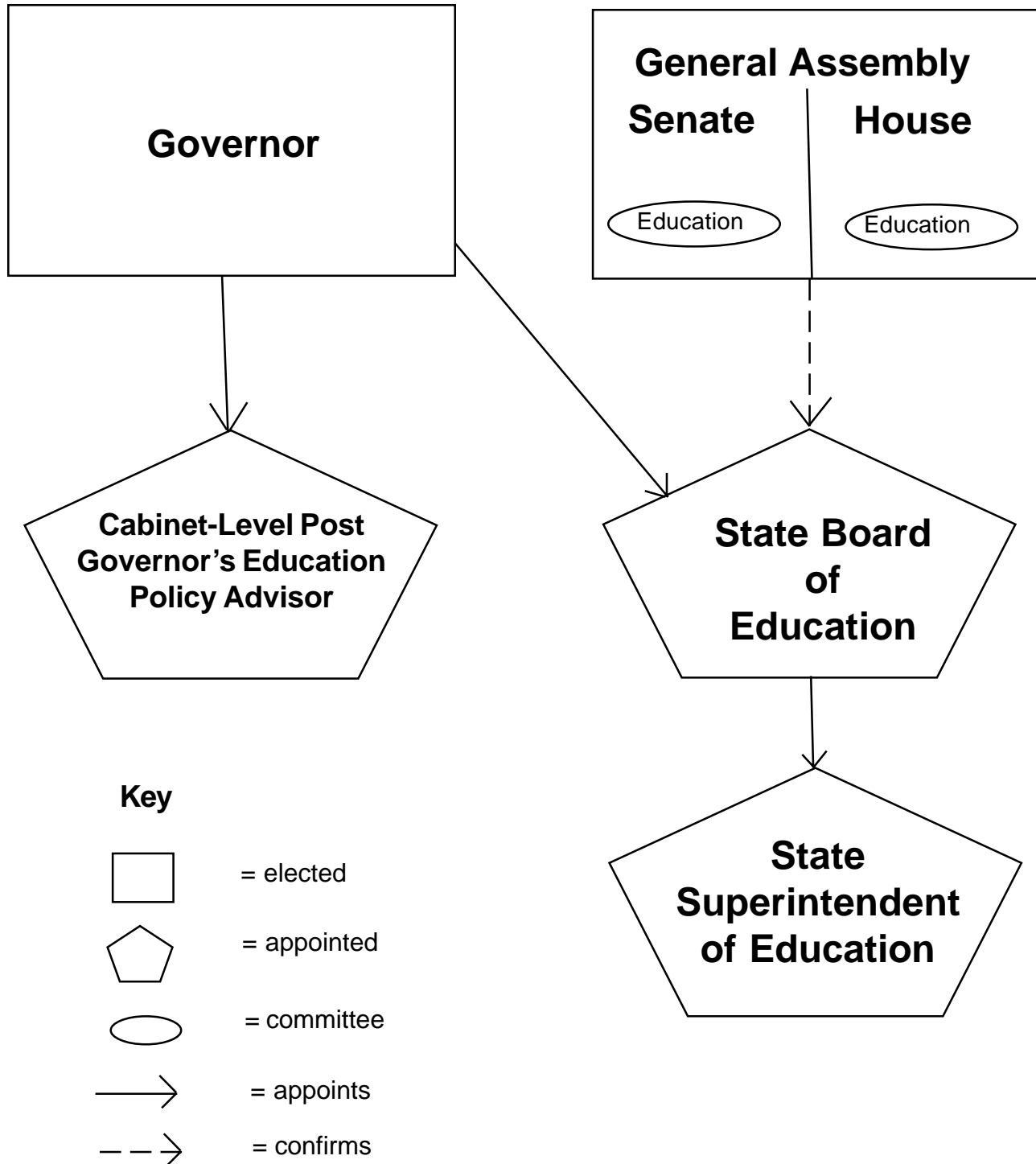
Another possible option is shown in Exhibit 2.²⁹ This option would separate the functions currently performed by the Commissioner of Education into two distinct jobs. At present, the Commissioner serves both as the Governor’s spokesperson for education, and as the chief administrator of the Department of Education. As indicated in the diagram, this change in the governance structure would retain a cabinet level officer as the Governor’s spokesperson for education, but would give the job of administering the Department to a State Superintendent appointed by the State Board of Education. The Governor’s staff member could retain a powerful presence as a member of the State Board of Education.

Under this system, however, the Governor and the legislature would maintain a great deal of control. As noted earlier, the current appointment and confirmation system needs more active participation from the legislature, but it has been an adequate

²⁹This particular option was suggested by representatives from the Tennessee Organization of School Superintendents and the Tennessee School Boards Association. It has been modified slightly, but the structure is essentially the same.

Exhibit 2

Proposed Governance Structure



Source: Schematic diagram is taken from Mary McCarthy, Carol Langdon, and Jeanette Olson, *State Education Governance Structures*, Denver: Education Commission of the States, 1993.

method of choosing caring and dedicated people to set education policy. The Governor would maintain the ability to choose qualified candidates for the State Board, and would also retain the cabinet-level post for education matters. In this scenario, the person filling this post would continue to serve as the Governor's spokesperson for education, as a member of the State Board of Education. The Governor's representative could be given his or her own small staff to develop policy for the Governor, and would then present those policies to the State Board and the public at large.³⁰

If the State Board were to appoint the Chief State School Officer, it is unlikely that the Board would continue to need an independent staff. If the CSSO were to answer directly to the Board, it would probably be necessary to form a dedicated policy development and research unit within the Department. The staff of such a unit would work under the CSSO and would perform much the same long-term policy development functions that the independent staff does now.

This governance model would give the State Board the authority it needs to see its policies implemented; it would also demand the same level of accountability from the state's Chief State School Officer that is demanded of local superintendents. In addition, it would eliminate the rivalry between the State Board and the Department of Education.

- **Communication and consensus-building are serious problems for the State Board of Education.**
Legislators and members of the professional education community are frustrated by what they perceive to be the Board's indifference to their concerns. Because of the lack of communication between the Board and the legislature, lawmakers have not felt confident that the Board was doing its job, or that the children in this state are being properly educated. This failure

³⁰One other state has adopted a governance structure almost identical to the one proposed here. In Kentucky, the governor appoints the members of the State Board, who then appoint the CSSO. The governor also appoints the Secretary of Education, Arts, and the Humanities, who is a cabinet member. See Martha McCarthy, Carol Langdon and Jeanette Olson, *State Education Governance Structures*. Denver: Education Commission of the States, 1993, p. 9, Table 1, and p. 58.

to attend to political considerations has had major consequences for the Board's image among the state's policy makers.

Board members are also frustrated, though for a different reason. They believe they have provided the necessary information to legislators and included the education community in their planning processes.

COMMUNICATION WITH THE GENERAL ASSEMBLY. Legislators' number one complaint is that the State Board has done a poor job of communicating with them; they are particularly frustrated by the Board staff's habit of sending them lengthy written reports. Policy makers noted that their desks are always covered with papers, and that a "politically savvy" Board would realize this. The Board's failure to initiate contact with the legislature, and the Board staff's reliance on written research reports, has given legislators the impression that Board members live in an "academic ivory tower." This view of the Board has severely undermined its prestige among legislators, and has contributed to the erosion of its authority and autonomy.

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Several legislators said that they knew neither who Board members are, nor what they do, and they indicated that most of their colleagues (who were not interviewed) felt the same way.³¹ General Assembly members who had nominated individuals to serve on the State Board complained that they never saw or heard from those individuals again—or from Board staff members for that matter. Some of the legislators, including members of the Education Committees and members of the House leadership, said that they had *never* met with any member from the State Board of Education. Most said that, while they often saw the Executive Director in committee meetings, they rarely, if ever, saw either him or his staff at any other time.

³¹ A recent House Education Committee meeting was instructive. It became clear to the author during questioning of new Commissioner of Education Wayne Qualls that members of the committee were confused about the distinction between the State Board and the Department of Education. That no one offered to correct their errant assumptions was a stark reminder of the Board's failure to make an impression upon some of its most important political constituents.

The issue of who should initiate communications was also raised. Some lawmakers perceived that Board members and staff think themselves too important to call on legislators. One legislator noted that he thought it was the responsibility of State Board members and staff to come to him; he did not feel that it was his job to seek them out. Another noted that Board members and staff appeared to expect lawmakers to go to the State Board office. This was the source of some resentment.

Every legislator interviewed for this evaluation said that Board members and staff should make it a priority to meet face-to-face with legislators on a regular basis. Currently, however, Board staff members meet with only one legislator, Senate Education Committee Chair Ray Albright, on a regular basis, and Senator Albright said that these meetings were initiated by his office.³²

Some lawmakers noted that representatives of education interest groups (such as the Tennessee Education Association) make it a point to meet with many different legislators—not just the chairs of the education committees. Most of these groups provide succinct information to show how they believe legislators should vote. As one member put it, “Good lobbyists know how I’m set up...they know how to get information to me.” Lawmakers want the same kind of direct communication from the Board.

Legislators are also annoyed that the Board takes action without consulting them. Most felt that it was simple courtesy for the Board to keep them informed about pending changes in education policy. Recent changes in the High School policy are a case in point.³³ Over 18 months ago, the legislature instructed the State

³² Some Democratic lawmakers also felt that the Board’s creation under Republican Governor Lamar Alexander’s administration has biased both Board members and staff, and left them unwilling to deal with Democratic leaders. Legislators pointed out that, in a heavily Democratic state, this was problematic. This impression exists, even though all current members of the State Board of Education have been appointed by Governor Ned McWherter, who is a Democrat.

³³ The new policy is geared toward preparing all students for either college or the workplace. The policy mandates a two-path curriculum: the Tech Prep curriculum and the College Prep curriculum. The Tech Prep path will be designed to prepare graduating seniors to go directly into the workforce; it is also designed, however, to ensure that Tech Prep graduates will be prepared to go on for additional training in higher education, particularly vocational education. The College Prep path is designed to prepare students for entrance into a regular four-year college or university.

Board to develop a new two-path High School policy. Key legislators already believed the Board had waited too long to draft the new policy. Once the Board drafted the policy, however, it bowed to pressure from school personnel and decided to delay implementation of the program for an additional year. Legislators protested the delay, and the Board reversed itself, ordering the new policy to be implemented in 1994-95. Some legislators were angry that the Board had not worked more closely with the legislature in drafting the new High School policy. They felt that the Board had presented the policy as a *fait accompli*; in fact, several mentioned that the Board had released the policy to the public without first consulting the legislature.

Some Board members and staff responded to these criticisms by noting that they had believed their primary responsibility was to the Governor, not to the legislature.³⁴ They are appointed by the Governor, and, according to Board members, the Chief Executive is the one person who can successfully push a multi-billion dollar program through the legislature. Chairman Dick Ray compared the Board's relationship to the legislature and to the Governor as one of a child caught between biological and adoptive parents. He believed that, while the legislature had "given life" to the Board, it was the Governor who "nurtured" it. This perception led the Board to hand over their programs to the Governor, rather than work with the legislature to get things passed. The problem with this philosophy becomes apparent, however, when one views the vitally important role that the legislature plays in funding, and, increasingly, in areas such as curricula and graduation standards. Mr. Ray, and all other Board members as well, acknowledged that their neglect of the legislature had been a mistake.

On the other hand, some Board members remarked that legislators seem to forget the State Board is a lay board, with limited time for meeting with and lobbying legislators. Every member emphasized his or her commitment both to the State Board, and to public education in general, and most believe they spend an extraordinary amount of time on Board activities. Most

Students and their parents will be required to designate a particular path before the beginning of the ninth-grade year. Core classes will be the same, so a student could change his or her mind before the junior year.

³⁴This was certainly not the perception of all Board members. Several of them said that their relationship with the Governor was practically nonexistent. This was a perception more likely to be held by newer members of the State Board.

of them, however, are business leaders and professionals, with careers that take up a good deal of time. They expressed willingness to spend more time working with the legislature, but they also cautioned that there is a physical limit to what they can do.

Board members and staff take pride in their view of themselves as “apolitical,” even though educational policy and funding are determined in a political setting. Legislators have a vested interest in education policy; their constituents want to know that students in Tennessee are getting the kind of education necessary to be successful in the 21st century workplace. Because the Board shuns “politics,” many legislators are under the impression that the State Board is just another layer of education bureaucracy that ought to be eliminated. In fact, *every member of the House interviewed for this study stated that the State Board should be abolished* and its functions moved to the Department of Education. These complaints show a very serious problem in the relations between the General Assembly and the State Board.

This communication failure has occurred, in part, because Board staff members have persisted in sending written reports to legislators when all evidence indicated that lawmakers were not reading them. Members of the General Assembly must spread their time over many different issues, and they rely on interest groups to provide relevant information in face-to-face meetings. Legislators cannot understand why Board members and staff do not make the effort to do the same kind of “public relations” work.

On the other hand, many legislators seem to expect the State Board to act as a lobbying group. The State Board is an Executive Branch agency, and Board members, and staff, have believed that it was their duty to hand any policy recommendations to the Governor and his staff. Legislators may need to reexamine their expectations in this area, and communicate those expectations to the Board in as clear a manner as possible.

COMMUNICATION WITH THE EDUCATION COMMUNITY. Board members and staff consistently stressed how hard they had been forced to work to bring all the major education players together. Every major group interviewed agreed that the relationships between and among education advocacy groups, the State Board,

and the Department had been rancorous before the re-creation of the State Board in 1984. Many people gave former State Board Chair Nelson Andrews the credit for negotiating a “cease-fire,” and getting all parties to the table to talk about what was lacking in Tennessee’s education system.

Subsequent efforts at consensus-building have not gone as smoothly, however. All of those who represent education advocacy groups said that Board staff members had requested their participation in policy development; but they also complained that their suggestions were ignored. They were angry at Board staff members for two reasons: first, they believed that policy decisions had already been made by the Executive Director and his staff, and that they had been called in only to give the stamp of legitimacy to the proceedings; and second, the Board staff released new policies, and listed the names of these educators and groups as contributors—giving the impression that groups such as the Tennessee Education Association [TEA], the Tennessee Organization of School Superintendents [TOSS], or the Tennessee School Board Association [TSBA] had given their stamp of approval to the final version of a policy. Several of those interviewed noted that they did not wish to receive credit for Board policies with which they disagreed.

The Comptroller’s Office survey of superintendents indicated that the very function of the Board is unclear to most active educators.

There seem to be particular problems with the Board’s image at the district level. The Comptroller’s Office survey of superintendents indicated that the very function of the Board is unclear to most active educators. There is real confusion about the relationship between the State Board and the Department of Education, and the roles of each. District personnel do not know who Board members are, their duties, terms of service, or any number of other important facts. They were unsure of the mission of the Board and quick to blame the Board for things over which the Board has little or no control, including fee waivers for low-income students (which were mandated by the General Assembly).

Another common complaint is that the Board does not involve Local Education Agencies [LEA’s] in key decisions that affect them. Many cited the new High School Policy as a prime example. Board staff members did not send out the draft of the

new policy until July 1993. The Board was scheduled to vote on the policy in September. Many superintendents who answered the questionnaire stated that they did not have enough time to evaluate the policy and respond in a timely fashion. They blamed the Board for poor communication techniques, and they were angry that Board members adopted the new changes with so little input from those who work in the schools.

Even if criticisms from legislators and educators are inaccurate, the perception remains that the Board is uninterested in listening to others, or unwilling to change in response to criticism or suggestions from others. This is detrimental to the Board's ability to advocate for educational change. If the Board's key professional and legislative constituents feel excluded from the decision-making process, it is unlikely that they will take the efforts of the Board seriously.

- **The General Assembly is setting policy itself, rather than allowing the State Board to do so. The State Board has aggravated this situation by refusing to propose its own legislation.**

Members of the General Assembly are frustrated that they have had to address through legislation issues that they believe the State Board was given the responsibility to handle. Key legislators believe that the Board has statutory authority that it has failed to use. The areas in which legislators believe the Board had the ability to pursue reform, but did not, include funding reform, accountability measures for teachers and other school officials, and the creation of a method to measure student achievement. In the 1993 legislative session, over 90 education bills were introduced. While members of the Education Committees consistently decried attempts to pass new legislation, the sheer volume of new bills and the legislature's disappointment with the State Board's performance, make it difficult to avoid doing this.

Legislators complain that the State Board considers itself to be an executive "think tank," and waits for the legislature to call upon it rather than making an effort to bring issues to the legislature. They said that State Board members and staff do not engage in the same kind of lobbying/informational efforts that other players in the education reform arena do; legislators found this lack of action both disturbing and incomprehensible. Moreover, the Board does not bring forth legislation. This is a particular source of irritation to legislators, because it indicates to them that the

Board is not really interested in education reform. The failure of the Board to do these things led several legislators to express the opinion that the State Board had contributed little or nothing of value to education reform in Tennessee.

In fact, many legislators feel that the General Assembly, not the Board, is doing the original work on education reform. They see the Board as merely an advocate for ideas coming out of the legislature. The Education Improvement Act [EIA] is a case in point. Some lawmakers feel that they were forced to pass the EIA because the Board had not proposed a workable plan for education reform. Several noted that the Board had been helpful in “selling” the EIA, but they are irritated at what they see as the Board’s failure to do its job. In their view, the EIA should have been a Board initiative. The Board’s effective advocacy for the EIA did not make up for the fact that the legislature had to develop the legislation.

BOARD RESPONSE. Board members were quick to criticize the legislature’s habit of “reforming” education. They pointed out the Board’s many accomplishments, as demonstrated by the *Master Plan* and the *Funding Needs Reports*. They also complained that legislators do not understand how long it takes to develop a policy, particularly when Board members want to ensure that teachers, principals, and superintendents are willing to implement the policy. According to Board members, legislators are too quick to mandate new programs, rather than giving existing ones time to work; they also believe the General Assembly is legislating what should be Board policy. Many pointed to the Sanders’ Model and the Tennessee Comprehensive Assessment Program [TCAP] tests as examples of legislative interference with the Board’s mandate.³⁵

³⁵The Sanders’ Model was adopted as part of the Education Improvement Act in 1992. The model relies on a “value-added” assessment tool. Children in grades 2-8 take a customized test [the TCAP test], which combines a nationally norm-referenced component, as well as a criterion-referenced component. The tests include an appraisal of the following skills: math, reading, language, science, social studies, study skills, and spelling. Schools and children are assessed based on the gains they make, relative to national norms, from year to year. School systems which do not improve, or which fall behind, face possible action by state education officials. The legislation permits the Commissioner of Education to dismiss any or all members of the local school board and the superintendent and to mandate that new elections be held in any district that fails to improve after a two-year probationary period.

Some members complained that the Board has become a “rubber stamp” for the legislature. Legislators come together, make laws pertaining to education without consulting the Board as to their necessity or feasibility, and then send those laws to the State Board for “confirmation.” One member noted that there are some legislators who have expertise in education, but he asked “That’s what we were appointed to do, wasn’t it? Give them advice?” Board members are frustrated that they must write new rules and regulations to coincide with education laws passed by the General Assembly. They are particularly frustrated by the time they must spend on “fringe issues” mandated by the legislature. One member noted that policies on smoking in schools and sex education classes ought to be handled by Board policy, not legislative mandate. Members are also frustrated by the fact that district personnel blame them for things the legislature has mandated.³⁶

State Board staff members were also frustrated by the General Assembly’s habit of passing laws relating to education. Staff members believe that legislators do this, and then shift the responsibility to the State Board to develop the specifics and monitor implementation. Several staffers complained that the General Assembly has forced the State Board to include far too many items in the *Master Plan*.

They were also frustrated by legislators’ insistence that programs be developed and implemented instantly. Legislators think the

Staff members are aware of the pressure on legislators to “accomplish something,” but they believe that education is an area where the “quick-fix” will not work.

Board is not living up to its charge, staff members say, because legislators do not have a good grasp of the time necessary to develop, implement, and evaluate new programs. Legislators do not seem to understand that, without the support of those in the field, new policies and innovative techniques will not have a chance to be implemented fairly. Staff members are aware of the pressure on legislators to “accomplish something,” but they believe that education is an area where the

³⁶Fee waivers are a case in point. State law requires Local Education Agencies to waive extracurricular-activity fees for low-income students, but does not give any additional monies for that purpose. The Comptroller’s Survey of Superintendents, and anecdotal evidence from State Board members, indicated that district personnel blame the Board for this unfunded mandate.

“quick-fix” will not work. When legislators decide to create policies themselves, the result is a hodgepodge of laws that makes things even more difficult for those at the school-site level who are trying to do what is best for Tennessee’s children.

The Board itself has been dedicated to preserving as much local autonomy as possible; this is why staff members have been reluctant to bring forth a legislative agenda for the Board. As one staff member put it, “Why don’t we promote legislation? We don’t **want** legislation. The bulk of what we do is heading off legislation.” Board staff members want the legislature to concentrate on funding education properly and leave the policy-making to the State Board.

The confusion caused by the *Tennessee Code Annotated* is a source of particular concern for State Board staff members; several called it “archaic.” The State Board has recently thoroughly revised its own set of rules and regulations for schools and educators; most of these rules were abolished because they were, in the words of one staff member, “unenforceable.” The problem, as staff members see it, is that the legislature continues to mandate new laws that undermine the General Assembly’s own stated goal of maintaining local autonomy over schools. By forcing the Board to reintroduce rules and regulations in response to new statutes, the legislature makes it even harder for local personnel to do their jobs.

OTHER PERSPECTIVES. Those affiliated with the State Board were not the only ones frustrated by legislative participation in policy-making. Several Department employees (both current and former) expressed sympathy for the State Board, saying the Board could not do its job because of legislative interference in the policy-making process. Most of the Department personnel interviewed for this study believe that the legislature is the real policy-making body for education, and they feel that this puts the Board in an untenable position. As one official put it, legislative interference is a “crippling problem that the State Board must deal with....[they are] always aware that the State legislature can, and will, override them.” This same official noted that, if people were to look at the State Board policy manual, they would find that a sizable percentage of Board rules and regulations are written into law, and that the Board often has to pass rules to conform with legislation.

For some, the General Assembly's tendency to engage in policy-making was an argument that the State Board is superfluous...

The wider education community complained as well.³⁷ Many objected to the legislature's tendency to issue mandates in areas that, according to statute, should be handled by State Board policy. As an example, several pointed to the TCAP tests. While everyone noted the need for finding a way to measure student

achievement, many said that this should be the State Board's prerogative. Most were disturbed by the legislature's drafting the Sanders' Model into law, because many felt that it did not provide sufficient safeguards for teachers, principals and superintendents whose jobs could be affected by it. For some, the General Assembly's tendency to engage in policy-making was an argument that the State Board is superfluous; others reacted to this tendency with a plea for the legislature to get out of the business of handling day-to-day policy-making.

Members of the General Assembly have a natural interest in education policy. The majority of the state budget is spent on education, and constituents are greatly concerned about the education system in Tennessee. Given their lack of confidence in the State Board of Education, it is not surprising that legislators might be tempted to try their own hand at education reform. According to the current statute, however, it is the State Board of Education's job to set education policy for the state.³⁸ Specific legislation in the area of education policy undermines the State Board's ability to carry out its statutory mandate. The result is a plethora of laws affecting districts and personnel; this makes it difficult for districts to follow the laws, and it puts the Board in an untenable position.

Some legislators have complained that they are forced to make legislation because the Board has not done its job properly. The Board has been reluctant to pursue radical change because so much education policy is written into law, and Board members have tried to, in the words of one, "pick their battles." Without the power to appoint the Chief State School Officer, the ability to change the funding formula, or the opportunity to give new

³⁷This community includes representatives from TOSS, TSBA, TEA, and the superintendents who responded to the Comptroller's survey.

³⁸See the list of State Board duties on pp. 16-18.

programs a chance to prove their effectiveness, the Board has been effectively hobbled.

- **The State Board attempted to warn the General Assembly of funding inequities.**

Many legislators expressed the opinion that the Board had failed to address the question of funding disparity because it feared the political consequences of raising the issue, and thus decided to avoid the problem altogether, in the hopes that the courts would settle the issue. Legislators are angry that the Board's perceived reticence on this issue led to *Tennessee Small School Systems, et al., v. Ned Ray McWherter, et al.*, a major, and costly, lawsuit against the state.³⁹

Although legislators accuse the Board of failing to ensure that state funding for schools was distributed equitably, documentation indicates otherwise. The Board has addressed the funding issue in every report to the legislature since the first *Funding Needs Report*, issued January 23, 1986:

Per pupil expenditures vary widely among LEAs. Considering just those systems with K-12 programs, Fiscal 1984 total current expenditures per ADA ranged from \$3,228 in Oak Ridge to \$1,250 in Lewis County. If only local revenues are considered, current expenditures from local sources ranged from a high of \$2,190 per ADA in Oak Ridge to a low of \$262 per ADA in Hancock County.

In general, the systems which spent the most money per pupil were also those which were able to utilize more local money per pupil. In other words a relatively low level of equalization results from the Foundation Program's requirement for a local contribution. This finding is similar to that of a 1978 report on access to educational resources in Tennessee.

It is possible to define "fair and equitable" in terms of some minimum allowable expenditure disparity

³⁹For the Tennessee Supreme Court decision relevant to this case see 851 S.W.2d 139 (Tenn. 1993).

between school systems. One measure, developed by the U.S. Office of Education, expresses the difference between expenditures per pupil at the 95th and 5th percentiles. Using this measure the expenditure disparity in Tennessee is roughly 75 percent. ***If the U.S. Office of Education's level of 25 percent is taken as the standard for equity, then there are financial inequities in Tennessee's present system.***⁴⁰

The 1987 report included a more in-depth analysis of the funding inequities:

There is evidence to suggest that, while the current *allocation* TFP formula is equitable, ***equalization of funding under the TFP does not substantially narrow the spending gap between rich and poor systems.*** In 1979, the Tennessee School Finance Equity Study identified the source of this problem:

The local contribution toward the cost of the Tennessee Foundation Program amounts to approximately 11 percent of the total local tax revenue for public schools. Another 2 percent of the local tax revenue represents the calculated, but not required, local share of the foundation program for capital outlay. The remaining 87 percent of local tax revenue is not equalized by State funds. That is, school districts with relatively more tax paying ability per pupil have proportionately more resources per pupil from these local funds unequalized by the State (a variation as great as 4:1).

Too little of the TFP is currently equalized. The 1986 local share of \$52 million represents only six percent of total local tax revenue invested in education. An increase of the TFP base amount along with an increase in the share of TFP funds equalized, would not necessarily require an increase in local effort. Local effort outside the TFP would be brought within

⁴⁰Tennessee State Board of Education, Ad Hoc Committee on Funding. *Funding Public Schools*. January 23, 1986, p. 4. (Emphasis added.)

the program by such a move and equalized with state funds.

Another problem is that under the TFP, the method employed to equalize funding distribution is based on property wealth. There are several problems which result from using only property wealth to gauge ability to pay. First, school systems rely on more than property wealth to fund their public schools. In fact, statewide, property tax revenues are decreasing as a percent of total local tax revenues while local option sales tax revenues are increasing in importance. Second, taxes are paid out of income. Two systems with equal amounts of taxable property but differing per capita incomes, have differing capacities to pay for education. The best measure for ability to pay would combine property wealth, sales tax base, and income into a single measure of fiscal capacity.⁴¹

The *Tennessee Code Annotated* states that the State Board shall:

Develop and adopt policies, formulas, and guidelines for the fair and equitable distribution and use of public funds among public schools and for the funding of all requirements of state laws, rules, regulations and other required expenses, and to regulate expenditures of state appropriations for public education, grades kindergarten (K) through twelve (12).⁴²

The Board's ability to follow this charge has always been limited, in large measure because the funding formula is written into the *Tennessee Code Annotated*. Board members realized, almost from the Board's inception in 1984, that many of the state's school districts were seriously underfunded. Without the power to change the funding formula or raise taxes, however, the Board was limited in its ability to address the problems of inequitable funding. Its only recourse seemed to be to persuade the legislature either to change the formula or to raise taxes.

⁴¹State Board of Education, Ad Hoc Committee on Funding. *Annual Report of Funding Needs for Education in Grades K-12*. February 27, 1987, p. 26. (Emphasis added.)

⁴²Chapter 535, Tennessee Public Acts of 1992. (TCA §49-1-302 (4)).

Several Board members noted that Nelson Andrews, the chair of the State Board from 1984-1992, had essentially testified for the plaintiffs in *Tennessee Small School Systems, et al., v. Ned Ray McWherter, et al.*, the lawsuit brought by the small school districts seeking a larger share of the state's education dollars. They also noted that the court seemed willing to accept the BEP formula, which clearly had its genesis at the State Board, as the solution to the funding problem.⁴³

At their May 31, 1991 meeting, State Board members unanimously passed a resolution calling for a state income tax, in the belief that such a tax would provide the necessary funds for education.⁴⁴ Board members are particularly angry that they have gone on record calling for an unpopular tax increase, when legislators, who are accusing them of shirking their responsibilities, were unwilling to do the same. Several Board members stated that education reform will always fall short of the Board's goals, unless the legislature changes the state's tax structure.

Board members were indignant at the charge that they had neglected the issue of funding reform. They pointed to a long string of *Funding Needs Reports* that warned legislators of inequities in the education funding mechanism. In their view, there were two problems with funding for education: first, the legislature had done a poor job of funding education, and the State Board has no power to raise the necessary funds by itself; second, the funding formula was written into law, and the State Board has no power to change statute.

- **The confirmation process needs to be improved.**
Lawmakers complain that most Board members are unknowns who are appointed to the Board by the Governor to pay off

⁴³Several people were credited with developing the Basic Education Program formula, including Commissioner Charles Smith and Commissioner David Manning. While it is clear that these individuals and some others had a great deal of influence over the final formula, there is no doubt that the State Board was the first to recognize the problem of inequitable funding and to propose an alternative formula. All reliable sources indicate that the original BEP funding formula was drafted in 1987 by Dr. William Ives, who, at that time, was an employee of the State Board, and Dr. Brent Poulton, Executive Director of the State Board.

⁴⁴State Board of Education, minutes from the May 31, 1991 meeting. State Board members also met with Governor Ned McWherter on June 12, 1991 to reiterate their support for his income tax proposal.

political debts. Legislators are not certain that Board members are truly qualified for their positions. Most of the legislators interviewed for this study could name only the chair of the Board, if they could name any Board member at all. Many pointed to this fact as a problem, in and of itself. They asked the question, “How can we have confidence in people we don’t even know?”

A few legislators interviewed indicate that, although they had recommended to the Governor that a particular individual be nominated to the Board, they know little or nothing about the workings or duties of the Board. Legislators’ willingness to recommend candidates for the Board under these conditions is a disturbing indication that the General Assembly is unfamiliar with the importance of the Board.

Confirmation hearings have been less than rigorous. With only one exception, Board members indicated that they were asked few, if any questions during their confirmation interviews. The lack of serious questioning indicates that legislators are either unaware of the importance of their role in confirming State Board members, or are not concerned enough to be involved in that process.⁴⁵

Board members are also concerned about the validity of the appointment process. They are particularly concerned with the quality of appointees to the State Board, and the integrity of the confirmation process. Some Board members believe appointees to the Board have become less and less knowledgeable about education over time; they blame the Governor for his failure to consult with Board members themselves about possible nominees. Members who express reservations about the caliber of their colleagues differ, however, on the reasons they are uneasy. Some believe that the 1984 Board, composed almost entirely of high-profile business and professional leaders, was the ideal State Board. These particular members see the function of the Board as one of convincing the “movers and shakers” in the state to push for education reform—particularly when reform means higher taxes. They feel that educators and community activists do not have the same “cachet” with the business community, and, thus,

⁴⁵Due to the brevity of their confirmation hearings, many Board members received the impression that legislators were not particularly interested in them or the State Board.

cannot have the same level of influence with groups that are key to any major changes in the education system.

Other members have just the opposite set of concerns. They worry that some of their colleagues do not have the background, experience, or inclination to get involved with Board functions, in large measure because of their important career responsibilities. Others worry that many Board members have had no experience with public education; they are troubled by the fact that State Board members are setting policy when they have no idea of what really happens in a public school classroom.⁴⁶

At present, the only qualifications for Board membership are that there must be one representative from each Congressional district, and there must always be a minimum of three members from the minority party. An active teacher may fill only one seat on the Board. The Governor and legislators may need to decide what qualifications fit potential nominees to sit on the board that sets education policy for the entire state.

It is clear that increased legislative interest and active involvement in the confirmation process would strengthen the Board's relationship with the legislature. If policy makers expect Board members to become actively involved in legislative hearings and committee meetings, they need to impress upon potential Board candidates that this will be one of the requirements of the office.

It is clear that increased legislative interest and active involvement in the confirmation process would strengthen the Board's relationship with the legislature.

- **Leadership at the Board is a problem.** Complaints about leadership, or the lack of it, at the State Board could be separated into two different categories. The first category of complaints dealt with a general dissatisfaction with

⁴⁶This was a concern expressed by several Board members, including those who are *not* educators themselves. In the same vein, a number of Board members worried that the Board is not diverse enough, particularly from a racial standpoint.

Another issue that concerned Board members was communication within the Board itself. Female members of the State Board complained that their views and suggestions were not taken as seriously as those of the male members of the Board; one female member said her contributions were routinely ignored until a male member of the Board or staff restated her views as his own.

the Executive Director of the Board; the second dealt with the common perception that the State Board has failed to provide political leadership in the area of education reform.

Almost all the legislators who were interviewed for this study expressed some level of dissatisfaction with the Executive Director of the State Board, Dr. Brent Poulton. While many legislators hastened to describe Dr. Poulton as “a very nice man,” most felt that he has been less than forceful in his efforts to push education reform in the state. They also questioned his role as the Board’s spokesperson to the General Assembly. Some legislators said that they believed the Chair of the State Board, rather than a staff member, is the person who should answer questions before legislative committees.

As noted earlier, most of the Board members are business and professional leaders, who undoubtedly have a great deal of general political acumen. The fact that they are almost all employed full-time, however, limits their ability to spend a great deal of time in Nashville. Thus, representation of the Board has inevitably fallen to the Executive Director.⁴⁷

Similar complaints about the Board’s leadership were lodged by people in the Department of Education, the major education advocacy groups, and the Administration. Many feel that Dr. Poulton sets the agenda for the Board, controls the flow of information, and predetermines the outcome of Board decisions. Board members deny that this is the case, but the perception of Dr. Poulton as a “gatekeeper” persists.

As noted, the State Board was also criticized for its refusal or inability to provide political leadership. The Board was criticized roundly by educators and their representatives for its failure to contest the General Assembly’s habit of dictating education policy. Like legislators, the representatives of the various education advocacy groups also want to see the State Board present a coherent legislative agenda and then fight for its passage. Some felt that the Board’s failure to do so had led the

⁴⁷A similar situation exists with the Tennessee Higher Education Commission, the Tennessee Advisory Council on Intergovernmental Relations, and any number of other lay boards, where the Executive Director serves as the agency or board’s spokesperson.

General Assembly to approve legislation that does little, if anything, to improve education.

Another common complaint is that the Board is reactive, rather than the proactive force many believe it should be. Several of those interviewed believe that the Board is worried about its own survival, rather than about doing what is best for education. To these critics, the Board's low profile indicates that its members are unwilling to fight for the needs of Tennessee's children.

- **The low profile preferred by State Board members has impaired the Board's credibility and damaged its reputation.**

The fact that the Board does not propose legislation frustrates and angers legislators.

Legislators do not believe that the State Board has contributed very much in the way of education reform. They know few, if any, of the Board members. The fact that the Board does not propose legislation frustrates and angers legislators. Because the State Board has maintained such a low profile, many legislators perceive the Board to be just another bureaucracy draining taxpayers' dollars. If, as many believe, the Department of Education is doing all the work, legislators see no need for a State Board.

Department personnel also assert that the Board has accomplished little in the area of education reform. As an example, they point to the Education Improvement Act, which was initiated by the General Assembly, and for which the Department did most of the "lobbying." Commissioner Smith served as the most visible proponent of the EIA, and Department employees questioned whether the Board had played any significant role in the passage of that legislation.

The Board's low profile is an issue not only with legislators and with the Department. Survey results show that district superintendents are frustrated with the State Board. They either do not know what it does or who the members are, or they think it interferes too much at the local level. The problem seems to be that the State Board has taken a low profile for the most part, but has not managed to obtain the support of district personnel when it takes a high profile on issues such as the High School policy.

BOARD PERSPECTIVE. Board members told the interviewer that they have shunned publicity in the interest of developing policy

based on students' needs, rather than partisan political concerns. They have also avoided bringing legislation because they believe that the General Assembly should renounce writing education policy into law. Most members, and Board staff as well, believe that education reform is greatly enhanced when both the State and local boards have the flexibility to change education programs as needed. Codified education policy slows down the process.

Board members are concerned, however, that their collective decision to stay out of the limelight has undermined the Board's ability to advocate for Tennessee's school children. Both former members and long-term members on the current Board said that it had been a conscious decision on the part of the Board to focus on results.⁴⁸ In the words of one Board member, the State Board has not been a place for "grandstanding," and Board members have been satisfied that this should be the case. The accusations leveled by legislators and others, however, have made Board members rethink their intentionally-low profile. The Board has recently hired a publicist to raise public awareness about the State Board, its duties, and its achievements.

Board members take pride in their lack of political "savvy." Almost every Board member said, "We don't care who gets the credit as long as the work gets done." This attitude has served the Board well on the one hand, in the sense that it has led to collegiality between Board members and a focus on results. On the other hand, however, this attitude has allowed others to claim credit for the work done by the State Board, and it has also allowed others to blame the Board for things over which it has little control.

For instance, local newspapers consistently give credit to the Department of Education for reforms drafted by the State Board. Most recently, *The Tennessean* did a series of articles on the new High School policy adopted by the Board on September 17, 1993. According to the articles, all the changes seemed to originate in the Department, and with former Commissioner Charles Smith in particular. Another example is the perception among district

⁴⁸Everyone gave credit to former Board Chair Nelson Andrews for his leadership at the Board; he stated at the outset that partisan political concerns would not be allowed to influence Board policy. By all accounts, partisan politics has never played a role in Board decisions.

personnel that the Board was responsible for the fee waivers on extracurricular activities for low-income students passed by the legislature. Board members complained of being attacked by district superintendents on this issue, and the Comptroller's Office survey of superintendents revealed the same criticisms.

The Comptroller's survey highlighted one of the major problems with the State Board. Many of the statements made by the superintendents in their response to the survey show a dramatic lack of understanding of both what the State Board is and what they should expect from it. The Board itself, and the Board staff, must take responsibility for this—it is crucial to get the support of district personnel, and the Board seems to have failed at this.

- **Lack of K-12 experience on the part of State Board staff undermines the confidence of those affected by State Board policy.**

The absence of State Board staff members with any recent K-12 classroom teaching experience caused great concern among educators and their representatives. None of these groups indicated that they believed all, or even most, Board *members* should be active educators, but they did believe that the staff's primary role in policy development made the presence of someone with classroom experience imperative.

The attitude of staff members at the Board seems to be that they have access to all the professional advice that they need, through their extensive use of focus groups and advisory panels. Education advocates, however, see these groups as mere “window-dressing” to give the stamp of legitimacy to Board staff's plans.

The Board should consider the authority conferred on those with recent K-12 experience by the education community at large. Given that the Board itself is limited to one active educator (who is not as involved in the development of policy as staff members are), it would seem prudent to have people on staff who have recently been in the classroom. This would probably satisfy many in the education community who feel that their voices are never heard.

Legislative Alternatives

The members of the General Assembly may wish to consider some or all of the following alternatives with respect to the State Board of Education. Any changes in current law would require the members of the General Assembly to amend *TCA* Title 49.

- **If the General Assembly wishes to have a State Board of Education with long-term policy-making authority, that Board may need the power to appoint and dismiss the Chief State School Officer.**

Members of the General Assembly have agreed that accountability is best achieved at the local level by giving local school boards the power to appoint their own district superintendents. A Chief State School Officer responsible to the State Board would afford this same accountability at the state level. The current structure does not encourage coordinated development and implementation of education policy.

- **If the General Assembly wishes the State Board to be merely an advisory Board, the *Tennessee Code Annotated* should be changed to reflect that position.**

The State Board of Education's duties, as outlined in the *Tennessee Code Annotated*, make it look as if the Board has more power than it does in practice. The statutory list of State Board powers raises the expectations of legislators, and leads to unavoidable disappointment in the Board's performance. If the Board is to serve merely as a "think tank," the General Assembly cannot expect it to fulfill its statutory mandate, and should change the *TCA* to note clearly that the job of the State Board of Education is to make recommendations to the legislature, not to set policy.

- **The General Assembly may wish to leave current statutes in place, but initiate other changes that might enhance communication between legislators and members of the State Board.**

Legislators' chief complaint has been the lack of communication between the State Board and the General Assembly. Members of the General Assembly may wish to encourage better communication by becoming more involved in the confirmation process for State Board members. If legislators were to express a high level of interest in appointees to the State Board, it is likely that Board members would feel more responsibility toward the General Assembly. During confirmation hearings, lawmakers would have an opportunity to make their expectations about the proper relationship between the State Board and the General Assembly clear to prospective members.

Members of the General Assembly might also wish to schedule regular meetings with members and/or staff of the State Board of Education. Currently, Board members and staff meet regularly only with select members of the Education Committees.

Legislators might wish to require regular meetings or presentations to other committees or to the General Assembly as a whole from those affiliated with the State Board.

- **The General Assembly may wish to abolish the State Board.**

If the legislature is uncomfortable with the idea of granting the State Board of Education the authority and autonomy that its current mandate requires, members may wish to abolish the Board. This would mean that policy-making powers would have to be placed elsewhere. There are two possible sites for decision making outside of the State Board: the General Assembly itself, and the Department of Education.

In some measure, the General Assembly already serves as an education policy-making entity. The legislature is responsible for setting the funding formula for state appropriations to grades K-12. In 1992, the legislature passed the Education Improvement Act, a major piece of legislation which laid the groundwork for the reforms currently underway. Members of the General Assembly consistently introduce large numbers of bills that affect education in both specific and broad ways.

The drawback to placing policy-making in the General Assembly is that legislators are necessarily focused on a two- or four-year cycle. Political realities encourage legislators to demonstrate to their constituents that something has been done to “fix” education. Educational realities, on the other hand, demand a longer time frame to implement new programs and realize any benefits. These two considerations conflict with one another. Legislators may pass new programs, but may not feel able to give those programs the time necessary to show results. This has been the virtue, however, of having a State Board of Education: a lay board, insulated from public opinion, has the ability to wait a bit longer to see improvements. A lay board also has the ability to focus on and specialize in education issues; in addition to education, legislators must address many other subjects in their capacity as public servants.

In the absence of a State Board, the other logical place for education policy-making would be the Department of Education. Although the statute specifically states that development of

curricula shall be the responsibility of the State Board, the legislature often directs the Department to develop curricula and new programs. The Department has research staff, and could, with some additional staff, probably fill the void if the State Board were to be abolished.

One drawback to placing policy-making responsibility in the Department is that the Department's reputation has suffered from its past failure to provide accurate information to the General Assembly, the press, and local school districts. Many people interviewed for this study, including legislators, former Department personnel, and analysts in the Department of Finance and Administration, indicated that the Department of Education had done a poor job of collecting data in the past, and that this had proved to be a problem when trying to assess what education really needs in terms of funding, personnel, supplies, etc. They also complained about the Department's habit of giving only bits and pieces of necessary information, and those only on specific request. One senator remarked that the Department, unlike the Board, always seemed to be worried that information might be used against it, and so the Department was unwilling to hand it out. This problem would need to be addressed before the Department could be given sole control over both policy-making and implementation.

Appendix A

Persons Contacted

Senator Ray Albright
Chair
Senate Education Committee

David Alexander
Research Associate
State Board of Education

Nelson Andrews
Former Chair
State Board of Education

Judy Beasley
Current member
State Board of Education

Minnie Bommer
Current member
State Board of Education

Robert Byrd
Current member
State Board of Education

Chuck Cagle
Legal Counsel
Tennessee School Board Association

Tom Cannon
Assistant Commissioner
State Department of Education

Cavit Cheshier
Executive Secretary and Treasurer
Tennessee Education Association

Representative Eugene Davidson
Chair
House Education Committee

James DeMoss
Executive Assistant
State Board of Education

Margaret Dick
Public Information Officer
State Board of Education

John Folger, Ph.D.
Professor Emeritus
Vanderbilt University Institute for Public
Policy Studies

Charles Frazier
Current member
State Board of Education

Michelle Gowan
Budget Analyst
Department of Finance &
Administration

Harry Green
Executive Director
Tennessee Advisory Council on
Intergovernmental Relations

Burrell Harris
Current member
State Board of Education

Lynne Holliday
Former Senior Research Associate
Tennessee Advisory Council on
Intergovernmental Relations

Brad Hurley
Former Deputy Commissioner
State Department of Education

William Ives, Ph.D.
Former Budget Coordinator
Department of Finance &
Administration

David Jones
President
Tennessee Education Association

Commissioner David Manning
Department of Finance &
Administration

Don McAlister
Deputy Executive Director
Tennessee School Board Association

Ernestine McWherter
Executive Director
Tennessee Organization of School
Superintendents

John Morgan
Current Member
State Board of Education

Musette Sprunt Morgan
Current Member
State Board of Education

Jimmy Naifeh
Speaker of the House of Representatives

Ken Nye
Research Associate
State Board of Education

Senator Anna Belle O'Brien
Chair
Education Oversight Committee

Lynnisse Roehrich-Patrick
Former Budget Coordinator
Department of Finance &
Administration

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Lt. Governor John Wilder
Speaker of the Senate

Representative Leslie Winningham
Vice-Chair
House Education Committee

Senator Andy Womack
Vice-Chair
Senate Education Committee

Appendix B

STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY



Office of Local Government
Survey of State School Superintendents

Please complete the following questionnaire and return it no later than
November 1, 1993.

An envelope has been provided for your convenience. It is important that you answer as fully and as frankly
as possible.

All replies will be kept confidential.

1. How many students do you have in your system/district?

Elementary School _____

Middle School _____

High School _____

2. What do you perceive to be the mission of the State Board of Education?

3. Do you feel that you have an adequate understanding of what the Board actually does?

If not, what questions do you have about the State Board of Education? (Meetings? Duties? Staff?
etc.)

4. What do you believe *should be* the role for the State Board of Education?

5. Do you feel that the Board meets your expectations? Why or why not?

6. **Have any State Board actions or policies affected your district in a positive way? If yes, please explain.**
7. **Have any State Board actions or policies affected your district in a negative way? If yes, please explain.**
8. **Do you contact any member(s) of the State Board of Education on either a regular or occasional basis?**

If so, how often do you contact members of the State Board? What might cause you to contact a Board member? Whom would you contact?

If not, why not? Are there obstacles to meeting with board members? Do you feel that the State Board of Education can do anything about the problems or issues facing your district?

9. **Do you feel confident of Board members' ability to make policy? Why or why not?**

10. **Have you ever contacted the staff of the State Board of Education for any reason?**

If so, why? To whom did you speak? Did you find the staff to be knowledgeable/helpful with your questions and problems? Was your question/problem handled to your satisfaction? Please explain.

11. **Can you suggest any changes that you think might improve the State Board of Education?**

Appendix C

A Brief Legislative History of the Tennessee State Board of Education

1875

The State Board of Education was created by the General Assembly in 1875, at the same time the Assembly laid the groundwork for the creation of the state Normal Schools.¹ The statute indicates that the trustees of the Peabody Educational Fund had offered to donate money to the state for the creation of a teacher-training college.² The legislature initially set up the State Board of Education to direct the creation and activities of the Normal Schools. The initial legislation prohibited the use of any state monies for the Normal Schools.

The State Board was directed to prescribe entrance examinations for students wishing to enroll in the Normal School(s), and set conditions for admission. The Board was also directed to create Normal schools for white and “colored” students, keeping them “entirely distinct and separate: *Provided*, that the provisions therein for training and improvement, shall be impartially proportioned to the demands of each.”³ The Board was to report to the State Superintendent of Education⁴, who in turn would report to the General Assembly “the operations of the Board, the condition and progress of the Normal Schools, with such suggestions as they may deem advisable for the improvement of Normal and Public Schools.”⁵

The Governor was charged with appointing six members to the State Board of Education. Two were to be appointed to six year terms; two to four-year terms; and two to two-year terms. After the expiration of their first terms in office, their successors were to be appointed for six years. There were no qualifications given for members. The Governor was to serve as an ex officio member of the board, and as its President.

1881

The General Assembly amended the enacting legislation to allow the State Board to distribute state funds to the Normal Schools.⁶ The initial state funding grant was \$10,000, to be used to provide scholarships to one (white) student from each state senatorial district. Students would be granted the scholarships based on their scores on an examination to be drafted and given by the State Board and on the recommendation of their state Senator.⁷ The legislature also appears to have granted the State Board its first regular budget.⁸

1883

In 1883, the General Assembly widened the scope of the State Board of Education, giving it the power to audit the financial transactions of the State Normal College. The Governor was charged with submitting biennial reports of the findings to the legislature. The State Board was also directed to administer the

¹The Normal Schools were institutes of higher education dedicated to training teachers.

²Chapter 90, Section 4, Public Acts of 1875. The first state Normal College was established in Nashville with a grant of \$6,000 from the Peabody Education Fund.

³Chapter 90, Section 10, Public Acts of 1875. (Emphasis in original.)

⁴A position created by “AN ACT to establish and maintain a Uniform System of Public Schools,” Chapter 25, Public Acts of 1873.

⁵Chapter 90, Section 14, Public Acts of 1875.

⁶At this point, there was only one normal school, located in Nashville.

⁷There were restrictions on this recommendation. Prospective students were required to be at least seventeen years old, and must have ranked first, second, or third on the exam in their particular district. The Senator was allowed to choose from those top three scorers.

⁸Out of a total \$20,000 appropriations for higher education, the legislature had granted \$10,000 for the white normal school, \$2,500 for the colored normal school, and \$3,775 for the relief of debts. Chapter 154 and Chapter 172, Section 27, Public Acts of 1881.

\$10,000 granted to it in 1881 for the exclusive use of the Nashville Normal School.⁹ The General Assembly also raised the amount of state funding allotted to “colored” pupils. from \$2,500 to \$3,300. This amount was to fund scholarships for two black students from each state senatorial district.¹⁰

1895

In 1895, the legislature gave the State Board of Education the statutory authority to certify all candidates running for County Superintendent of Education.¹¹ The qualifications were necessary to prove that a candidate was “a person of literary and scientific attainments, and of skill in the theory and practice of teaching.”¹² The Board was to provide those candidates meeting its qualifications with a certificate.

1925

The Board was to be composed of the Governor, the State Commissioner of Education (who was to act as chair), and nine members, three from each grand division of the state. All of the members of the board (including the State Commissioner of Education) were to be appointed to their positions by the Governor. The Assembly decreed that each of the two leading political parties was to be represented by at least three members.

The 1925 Public Acts set the terms of office at six years.¹³ Members were to be residents of the area of the state which they were appointed to represent; any member who moved from the grand division he or she was appointed to represent would be ousted. Vacancies were to be filled only for the unexpired part of a member’s term. Members of the State Board were to be compensated at the rate of \$5.00 per day for “attendance upon all regular and called meetings of the Board, and for all committee work assigned by the Board,”¹⁴ and they were also allowed funds for travel on Board business.

1937

The 1937 Public Acts declared the State Board of Education to be associated with the Department of Education for the purposes of administration. The Commissioner of Education was designated as the chair of the State Board.

The Board retained the responsibility for administering state teachers’ colleges and normal schools. It was given the authority to establish scholarships for “colored” students, with the stipulation that facilities for Negro students must be equal to those offered at the University of Tennessee. The State Board was also given the power to issue bonds, borrow money, or obtain federal loans or grants.¹⁵

1939

The State Board was given the power to adopt a minimum salary schedule for elementary school teachers.¹⁶

1947

Control over the Tennessee Industrial School, the Tennessee School for the Blind, and the Tennessee Deaf School was transferred from the Commissioner of Institutions to the State Board of Education.¹⁷

⁹The reasoning here seems to be that the State Board was to devote its time and resources to the one Normal School already established, rather than trying to set up additional Normal schools throughout the state.

¹⁰One should note that twice the number of black students were to be educated with one-third the money available to white students.

¹¹Chapter 54, Public Acts of 1895.

¹²Chapter 54, Section 1, Public Acts of 1895.

¹³Chapter 115, Public Acts of 1925.

¹⁴Chapter 115, Section 5, Public Acts of 1925.

¹⁵See Chapter 33, Section 57, and Chapters 224 and 256, Public Acts of 1937.

¹⁶Chapter 16, Section 3(a), Public Acts of 1939.

¹⁷Chapter 113, Public Acts of 1947.

1949

The General Assembly gave the State Board the responsibility of calculating the financial ability of each county to contribute to its new Minimum School Plan, which focused on elementary school competencies.¹⁸

The State Board was also given the authority to prescribe curricula for Master's degrees and to authorize schools of higher education to confer those degrees when curricula requirements were met.¹⁹

1951

The General Assembly transferred all professional certification responsibilities from the Commissioner of Education to the State Board of Education. The new statute gave the State Board the right to collect a \$2 fee to cover the cost of providing certificates to teachers and administrative personnel. The State Board was also given the responsibility to appoint an Advisory Council on Teacher Education and Certification.²⁰

1957

The State Board was given the power to establish admissions standards for the state's colleges and universities.²¹

1959

The State Board was given the power to establish residency rules for the purpose of determining whether or not a student enrolling in a state college or university should be granted in-state tuition rates.²²

The Board's powers over local school officials were broadened to include city and special school district superintendents, as well as its long-established power over county superintendents. The Board was also given the authority to establish rules and regulations regarding the education of mentally retarded children.²³

1963

The composition of the Board was changed to include three additional members (one additional member from each of the state's three Grand Divisions), for a total of twelve. The conditions specified in the 1925 Public Acts were included, although the rate of remuneration for Board members was increased to \$15.00 per day.²⁴

1972

Control over the state's universities and colleges (those not affiliated with the University of Tennessee system) was transferred from the State Board of Education to the newly-created State Board of Regents.²⁵

1976

The State Board was prohibited from regulating the selection of faculty members, textbooks, or the establishment of a curriculum in church-related schools. These schools were not, however, prohibited from voluntarily seeking State Board approval.²⁶

¹⁸Chapter 9, Section 7, Public Acts of 1949. The Minimum School Plan was the forerunner of the Tennessee Foundation Program and the Basic Education Program.

¹⁹Chapter 148, Public Acts of 1949.

²⁰Chapter 58, Public Acts of 1951.

²¹Chapter 211, Public Acts of 1957.

²²Chapter 118, Public Acts of 1959.

²³See Chapters 121 and 143, Public Acts of 1959.

²⁴Chapter 200, Public Acts of 1963.

²⁵See Section 8, Chapter 838, Public Acts of 1972.

²⁶Chapter 596, Public Acts of 1976.

1977

The General Assembly passed legislation creating the Tennessee Foundation Program [TFP]. The TFP was created to provide an equalized funding mechanism for public education. The State Board was given the authority to make rules and regulations governing the administration of the TFP.²⁷

1978

The General Assembly limited class membership in grades K-3 to no more than 25 students. The State Board was given the authority to establish teacher-pupil ratios in grades 4 through 12. Local education agencies [LEAs] were told they could lose a portion of their state education finance funds if they failed to adhere to the ratios.²⁸

1984

The General Assembly passed the Public Educational Governance Act and the Comprehensive Education Reform Act [CERA]. This legislation restructured the State Board, making it more independent of both the Commissioner of Education and the Governor, who were removed as members of the State Board. The new State Board was to be composed of nine members (one from each congressional district), appointed by the Governor and confirmed by the Senate and the House of Representatives. The Executive Director of the Tennessee Higher Education Commission was to serve as an ex officio member, and one public high school student was also to be appointed to the State Board. The Board was given the authority to hire an Executive Director and an independent staff.

The duties of the State Board were significantly expanded in the 1984 Public Acts. New responsibilities included the duty to study funding mechanisms and set policies for the fair and equitable distribution and use of public funds for K-12 schools; to develop a Master Plan for the development of public education; to set standards for teacher certification; to set graduation requirements; and to evaluate student achievement. CERA created the State Certification Commission, and gave the State Board the authority to administer the new Career Ladder program, which was designed to reward good teachers with significant pay raises.²⁹

1987

The statute defining the qualifications for State Board members was amended to allow the inclusion of one active educator on the Board.³⁰

1988

The State Board was named as a defendant in a lawsuit brought by 17 of the state's school districts, *Tennessee Small School Systems, et al., v. Ned Ray McWherter, et al.* The districts claimed that the funding mechanism used by the State Board discriminated against small and/or rural districts. The TFP, they asserted, did not take into account a district's needs, or the level of funding a district could reasonably be expected to contribute as its local share.

1989

The General Assembly directed the Commissioner of Education to develop, and the State Board to adopt "long-term, quantifiable" goals for a program designated "TENNESSEE CHALLENGE 2000." The program was based on the Southern Regional Education Board's Goals for Education: CHALLENGE 2000. The Tennessee Higher Education Commission was directed to do the same for higher education. The two boards were instructed to present a joint report on these goals and on the progress achieved in meeting them to the legislature.³¹

²⁷Chapter 289, Public Acts of 1977.

²⁸Chapter 809, Public Acts of 1978.

²⁹See First Extraordinary Session, Chapters 6 and 7, Public Acts of 1984.

³⁰Chapter 386, Public Acts of 1987.

³¹Chapter 133, Public Acts of 1989.

1992

The General Assembly passed the Education Improvement Act, which codified the new Basic Education Program [BEP] funding formula (developed by the State Board) and a new system of student, teacher, and school assessment, known as the “value-added” method or the “Sanders’ model.” Among other things, the State Board was directed to establish a review committee for the BEP; to approve a new high school policy geared toward preparing students adequately either for the workforce or for college; and to develop a diverse, multi-cultural curriculum for K-12.³²

³²Chapter 535, Public Acts of 1992.